STATE OF MINNESOTA DISTRICT COURT

COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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The State of Minnesota,
by Hubert H. Humphrey, III,
its attorney general,
and
Blue Cross and Blue Shield
of Minnesota,

Plaintiffs,

vs. File No. C1-94-8565

Philip Morris Incorporated, R.J.
Reynolds Tobacco Company, Brown
& Williamson Tobacco Corporation,
B.A.T. Industries P.L.C., Lorillard
Tobacco Company, The American
Tobacco Company, Liggett Group, Inc.,
The Council for Tobacco Research-U.S.A.,
Inc., and The Tobacco Institute, Inc.,

Defendants.

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DEPOSITION OF RAYMOND J. PRITCHARD

VOLUME I, PAGES 1 - 159

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(The following is the deposition of RAYMOND J. PRITCHARD, taken pursuant to Notice of Taking Deposition, at the offices of Brown, Todd & Heyburn PLLC, Attorneys at Law, 3200 Providian Center, Louisville, Kentucky, commencing at approximately 9:32 o'clock a.m., October 27, 1997.)

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I N D E X

EXHIBITS		DESCRIPTION	PAGE MARKED
Plfs'	1443	"Report on Visit to U.S.A., May 1973," Bates 100226995-7039	24
	1444	"STRATEGIES AND CONSTRAINTS," Bates 110069867-75	44
	1445	Memo dated 28th April, 1981, Blackman from Mostyn, Bates 109877228-37	48
	1446	Memo dated 17th December 1980, Heard to Function Managers, Bates 107472098	62
	1447	"BIOLOGICAL RESEARCH MEETING" minutes, 13th December, 1974, Bates 103474182-90	80
	1448	"Experiment B14, Interim Results to Week 76," Bates 103473113-4	91
	1449	"Visit to U.S.A. & Canada, 16.10.79 - 26.10.79," no Bates numbers	94
	1450	Memo dated January 24, 1980, Bilimoria to Wade, Bates 100985235-7	99

http://legacy.library.ucsf.edu/tid/glc05a00/pdf
Digitized by the Legacy Industry Documents Library. http://www.industrydocuments.ucsf.edu/docs/gmhd0001

1451 Letter dated 18th March 1981, Walker to Hughes, Bates 680585268-9 112

1452 Telex dated 9.9.83, Sheehy to Reid, Bates 301030961 124

1453 "STANCE ON SMOKING AND HEALTH, Note for Information and Discussion," Bates 109881275-8 139

1454 "REPORT TO BATUS BOARD OF DIRECTORS ON SMOKING AND HEALTH," Bates 512106944-64 147

1455 MINUTES OF THE BATCo CHAIRMAN'S ADVISORY CONFERENCE," Brazil, March 1983, Bates 109877063-92 150

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P R O C E E D I N G S

(Witness sworn.)

RAYMOND J. PRITCHARD

called as a witness, being first duly sworn, was examined and testified as follows:

ADVERSE EXAMNATION

BY MS. WIVELL:

Q. Good morning, sir.

A. Good morning.

Q. Would you please introduce yourself to the ladies and gentlemen of the jury.

A. My name is Raymond J. Pritchard. I'm a native of the British Isles, and I've been retired for four years.

Q. And what position did you retire from, sir?

A. I was the chairman and chief executive officer of Brown & Williamson, and a member of the board of B.A.T Industries.

Q. By "board of B.A.T Industries," you're referring to the board of directors, sir; right?

A. I'm referring to the board of directors.

Q. All right. How long were you president and chief executive officer of Brown & Williamson?

A. From 1985 until 1993, May of '85 to the end of

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March '93.

Q. All right. Who was CEO of Brown & Williamson before you, sir? Immediately before you.

A. Dr. Hughes.

Q. And who was CEO immediately after you, sir?

A. Thomas Sandifer.

Q. Now you said you were also a member of the board of B.A.T Industries. How long did you hold that position?

A. Just under three years.

Q. From when to when?

A. 1990 to 1993.

Q. What did you do before you became a member of the board of B.A.T Industries? I'm sorry, let me strike that.

What did you do before you became president and CEO of Brown & Williamson?

A. I wasn't president. I was the chairman of --

Q. I'm sorry. All right.

What did you do before you became CEO of Brown & Williamson?

A. I was with British-American Tobacco Company --

Q. That's BATCo; right?

A. -- in the United Kingdom.

Q. That's BATCo.

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A. That's correct.
Q. All right. What was your position with BATCo?
A. My final position was deputy chairman, and I was responsible for leaf tobacco purchase and manufacturing.
Q. How long had you been with BATCo, sir?
A. From 1997 -- 1977. I'm sorry.
Q. What was your first position when you joined BATCo?
A. As --
I first joined BATCo in 1952.
Q. Oh, all right. And what was your first position when you first joined BATCo?
A. I was a trainee.
Q. Did you work your way up through the ranks?
A. I did.
Q. All right. I take it you've had a number of different positions with BATCo.
A. That's correct.
Q. All right. Just briefly, what were some of the positions that you held from 1952 until you became deputy chair.
A. I first went to Nigeria in 1953 and I stayed there a short while; I then went in January 1954 to Indonesia, I stayed in Indonesia until 1964; I was

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then seconded to Export Leaf Tobacco Company in the United States, it was a sabbatical, in fact, because I had stayed on in Indonesia during the takeover period by the Sukarno government; after a year in states, 1965, I went to India to run a tobacco company there; I left India in 1970 and went to Brazil, and I stayed in Brazil until 1977 when I moved back to the United Kingdom.

Q. All right. And when you moved back to the United Kingdom, can you tell us what position that you had with BATCo?

A. I was the leaf director.

Q. Now sir, does BATCo make cigarettes?

A. BATCo makes cigarettes in the United Kingdom for export, but BATCo is also the holding company for the tobacco interests.

Q. All right. Well I'd like to focus for a bit on the cigarettes that BATCo makes. You said that they're made for export, and by that you mean export --

A. I'm sorry, BATCo does not make cigarettes. The company that makes the cigarettes in the United Kingdom is -- I'm not sure whether it's still called this, but it was called BATUKE, B.A.T. U.K.

Q. All right. And what -- strike that.

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When you said earlier that these cigarettes were made for export, you mean export from the United Kingdom --

A. That's correct.

Q. -- to other parts of the world.

A. That's correct.

Q. And these cigarettes that you are referring to that were made for export are imported into the United States; aren't they?

A. Very, very few.

Q. But they are.

A. Very, very few.

Q. But they --

A. I think there's a small quantity that goes into California. I'm not sure, certain.

Q. But just so the record is clear, the -- there are cigarettes that are made by BATUKE that are imported into the United States; right?

A. I believe that is correct.

Q. All right. And these brands include State Express 555.

A. That's right.

Q. Silk Cut?

A. I'm not certain of Silk Cut.

Q. All right. How about Dunhills?

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A. No.
Q. Are there -- who --
Who makes Dunhill?
A. Dunhill.
Q. All right. Are there other cigarettes that are made by BATUKE that are brought into the United States?
MR. McGAAN: Object, vague as to timeframe.
You can answer if you know.
A. I'm not certain. The only one that I'm aware of was State Express.
Q. All right. (Coughing) Pardon me.
Now before 1995, State Express 555 was sold to wholesalers in California; right?
A. I believe that is correct, but I'm not certain.
Q. And the wholesalers then distributed them for sale in -- or throughout the United States.
MR. McGAAN: Object, calls for speculation.
A. I'm -- I'm not certain where they sold them. I thought it was only in California.
Q. All right. Are you familiar with the wholesalers George Benson & Son?
A. No.
Q. All right. Do you know the specific wholesalers

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that BATUKE cigarettes --

A. No.

Q. You're going to have to let me finish, and I sometimes pause.

A. I'm sorry. I'm sorry, I thought you --

Q. We have --

We have to make sure we don't speak over one another because the court reporter can only take one person at a time, so I will try and let you finish if you will try and let me finish. Okay?

A. That's fine.

Q. All right. Let me re-ask the question just in case.

Do you know the wholesalers that BATUKE cigarettes were sold through in the United States?

A. No, I don't.

Q. How long have BATUKE cigarettes been sold here in the United States?

A. I can't even guess at it.

Q. All right. Were they being sold at the time that you joined BATCo in 1952?

A. I wouldn't know.

Q. Sir, do you know how long those cigarettes have been offered for sale in the state of Minnesota?

MR. McGAAN: Object, lacks foundation.

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A. I don't even know if they were sold in Minnesota.
Q. You just don't know one way or the other.
A. No.
Q. Fine.
Now sir, are you familiar with -- strike that.
You said that you were CEO of Brown & Williamson from 1985 until 1993; is that right?
A. Correct.
Q. What did you do as CEO of Brown & Williamson? What were your general responsibilities?
A. Well my general responsibility, I was responsible for running the company.
Q. All right. Well what did you do on a day-to-day basis?
A. Consult with my colleagues, make decisions.
Q. Anything else?
A. That's the normal routine of a CEO.
Q. All right. Now by --
When you say consulted with your colleagues, that included people at Brown & Williamson; right?
A. Yes, indeed.
Q. It included people at BATUKE?
A. Occasionally.
Q. It included people at BATCo?

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A. If there were matters of common interest, yes.
Q. And it also included employees of B.A.T Industries; didn't it?
A. Very, very seldom.
Q. But it did; didn't it, sir?
A. Occasionally.
Q. Now are you familiar with the name Geoff Felton?
A. Yes.
Q. Okay. Who was Geoff Felton?
A. Dr. Felton was a scientist at the research establishment in Southampton.
Q. By "research establishment," you're referring to Group Research & Development at Southampton.
A. That's correct.
Q. All right. Now for most of the period of time that you were with BATCo, the R&D facility at Southampton was a BATCo facility; wasn't it?
A. That's correct.
Q. It remained a BATCo facility until it was transferred in 1985 to BATUKE; right?
A. Correct.
Q. Now when you mentioned the research facility that Dr. Felton was involved with, he was a BATCo employee; wasn't he?
A. I believe he was, yes.

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Q. And you understand that he eventually retired from BATCo and became a consultant to B.A.T Company -- BATCo; right?

A. I am not certain. I know he retired, but whether he remained as a consultant, I don't know.

Q. All right. Well you know that BATCo had consultants, scientific consultants; right?

A. Yes, I do.

Q. Dr. Roe was one of those consultants; wasn't he?

A. That name sounds familiar.

Q. All right. And he --

He is familiar because he was a consultant; right?

A. Well I've heard the name mentioned.

Q. All right. And Dr. Lee was another BATCo consultant; wasn't he?

A. That I'm not familiar with.

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 935, this is a document that begins with the Bates number 109968424; right?

MR. McGAAN: She's reading from --

A. I don't know what a Bates number is.

Q. All right. There's a number down in the corner of the document; right?

A. Yes.

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Q. All right. And that --

MR. McGAAN: Let me just -- I'm sorry to interrupt you. I'll just tell the witness there's --

A lot of the documents, if not all of them you'll see, will have these small numbers stamped somewhere along the side, and that's been done in the litigation to track where documents are and for identification purposes, and we call them Bates numbers.

THE WITNESS: Okay.

MR. McGAAN: I'm sorry, Marti.

MS. WIVELL: All right.

BY MS. WIVELL:

Q. For the record, the number is 109968424.

Sir, would you turn to the last page of Exhibit -- I'm sorry, the second-to-the-last page of Exhibit 935. Would you read the last paragraph to yourself before the list that begins with the word "Additives?"

All right. It refers to Dr. Felton retiring next year; doesn't it?

A. Uh-huh.

Q. You have to --

A. Yes.

Q. Okay. And this document is dated 1982; right?

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A. Correct.
Q. Now if we look at the next page, in the second paragraph it refers to Dr. Felton becoming a consultant to B.A.T; doesn't it, sir?
A. It does.
Q. All right. And it also refers to existing consultants, Dr. Francis Roe and Dr. Peter Lee; correct?
A. Correct. Correct.
Q. All right. Looking at this, does it refresh your recollection that Drs. Roe and Lee were BATCo consultants?
A. Well it says that they're -- here that they're consultants, but I wasn't aware at the time that I can recall.
Q. All right. Do you recall Dr. Roe consulting in the medical area?
A. I don't --
MR. McGAAN: Object, lacks foundation. You can answer if you know.
A. I don't recall.
Q. All right. Do you recall Dr. Lee being a consultant to BATCo in the area of statistics and epidemiology?
A. I don't recall.

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Q. All right.
A. It says he was here.
Q. You have no information which contradicts what it says in the second paragraph on the last page of Exhibit 935.
A. No, I don't.
Q. All right. Now sir, what was Dr. Felton's position at BATCo?
MR. McGAAN: Object, lacks a timeframe.
A. I --
MR. McGAAN: You can go ahead and answer if you know what his position was.
A. I'm -- I'm not exactly certain what his position was. He was a senior scientist if not the senior scientist in -- in Southampton.
Q. Now from time to time Dr. Felton made trips to the United States on behalf of BATCo; didn't he?
A. Probably. I --
Q. Well are you aware of trips that he made?
A. I'm not. I can't recall. He probably did.
(Discussion off the stenographic record.)
BY MS. WIVELL:
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 432, this is a document that begins with the Bates number 105407261. Now Exhibit

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432 is a report on a visit to the U.S. dated September through October 1964, report on research into smoking and health; right?

A. That's correct.

Q. All right.

A. That's what it says here.

Q. Have you seen this document before, sir?

A. No.

Q. This --

Isn't this one of Dr. Felton's reports that he made when he returned from one of his visits to the United States?

MR. McGAAN: Object, lacks foundation.

A. It's a report on a visit to the United States, but I can't see who wrote it.

Q. All right.

A. I can't find the signature. I can't find the mention of the name.

Q. All right.

A. Normally these things would be signed.

Q. Now sir, whoever did this report, Exhibit 432, had met with researchers from various U.S. tobacco companies; right?

MR. McGAAN: Object, lacks foundation.

A. That's what it says.

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Q. All right. They had met with R. J. Reynolds; right?

MR. McGAAN: Object, lacks foundation, unless you're asking him just what the document says.

A. The document says -- or refers to a discussion at R. J. Reynolds.

Q. All right. It also refers to discussions that took place at Philip Morris; right?

A. That is correct. That's what it says here.

Q. Now the author of the report at the end of page 267, when talking about R. J. Reynolds, says, "No sign or mention of biological research;" correct?

A. That is what it says here.

Q. All right. And if we go on to the next page concerning discussions that were -- that took place at the Philip Morris Research Center in Richmond, it says that Philip Morris's biological research was concerned only with short-term tests; right?

MR. McGAAN: What -- what page are you on?

A. You'll have to tell me which page you're on.

Q. The page that ends with Bates number 268, the next page.

A. I still can't find it.

Q. All right. Well sir, directing your attention to the paragraph toward the middle of the page, the

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second complete paragraph that begins with, "Dr. Wakeham said...." It says there, "Their biological research was carried out for them by Food and Drug Research Inc., Long Island, and another firm (name not given). In their biological research, they were concerned only with short term tests; Wakeham said that they simply could not wait two years for results of experiments." Right?

A. That's what it says.

Q. All right.

Now sir, isn't it a fact that as a result of conversations with U.S. tobacco companies, BATCo knew in the early '60s that the U.S. tobacco companies were not doing in-house biological research?

MR. McGAAN: Object, compound, lacks foundation, assumes facts not in evidence.

You can answer if you know.

A. I wouldn't know. I can only answer from this document that there were obviously discussions like that going on, but I was in India at the time, so I wouldn't know anything about it.

Q. Sir, showing you what's been previously marked as Plaintiffs' Exhibit 140, this is a memo that Geoff Felton wrote after a meeting that he had with Dr. Helmut Wakeham, vice-president of research and -- at

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Philip Morris; right?

A. It would appear --

Through the initials DGF, it would appear to be Dr. Felton.

Q. And --

A. So one therefor assumes he wrote it.

Q. All right. Just so the record is clear, he was referred to in-house at BATCo as Geoff Felton; wasn't he?

A. That's correct.

Q. All right. Despite the fact that his initials were DGF; right?

A. That's right.

Q. Would you turn to the second page of Exhibit 140. There under the heading "Philip Morris Affairs," it says, "One result of the greater influence which Wakeham has with Mr. J. Cullman has been the agreement, albeit reluctant, to permit Philip Morris to do 'in-house' biological work. When this was first mooted, Wakeham was told there was a tacit agreement between the heads of the US Companies that this would not be done." Have I read that correctly?

A. You have read that correctly.

Q. Sir, did you become aware that there was a tacit

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agreement or a gentlemen's agreement that in-house biological research would not be done by the U.S. cigarette manufacturers?

A. I was not aware.

Q. All right. So you have no information which contradicts what's written here.

A. I have no information which contradicts it.

Q. Now sir, were you aware that Doug Felton, while he -- I'm sorry. Were -- strike that.

Were you aware that Geoff Felton, on one of his visits to the United States, received a confidential CTR report showing that an American scientist had introduced -- or had instigated tumors in the lungs of animals through exposure to cigarette smoke?

MR. McGAAN: Object, vague, lacks foundation.

You can answer if you know.

A. I was not aware.

Q. Have you ever received -- ever seen a report from -- I'm sorry, strike that.

Have you ever seen a report in BATCo's files that refers to work done by Dr. Loosli, L-o-o-s-l-i?

A. Not that I can recall.

(Plaintiffs' Exhibit 1443 was marked for identification.)

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BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1443, this is a document that begins with the Bates number 100226995; right?

A. Correct.

Q. Okay. And Exhibit 1443 is a report on a visit to the U.S.A., May 1973, that Dr. Felton made; right?

A. I don't know. I have to look and see. Doesn't say in the heading.

Can you point me to where where it says this is written by Dr. Felton?

Q. Actually I can't find any initials myself.

Do you know if this document was written by Dr. Felton?

A. I don't.

Q. Let me ask you this: Did Dr. Felton believe that cigarette smoking caused cancer?

A. I don't think so.

Q. All right. Could you turn to page 32. Do you see there the sentence that begins, "I have always been received in the U.S.A. with the utmost courtesy and generosity, even though I was what Ed. Jacob regretfully described as, quote, an admitter, quote, where smoking as a possible cause of lung was concerned?"

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A. That's what's written here.
Q. All right. Well is there anyone else who made visits during the '50s and '60s and early '70s to the United States on BATCo's behalf other than Geoff Felton?
MR. McGAAN: Object, lacks foundation and assumes facts not in evidence.
You can answer if you know.
A. I'm sure there were.
Q. Who?
A. I have no idea, but I'm --
There were a number of scientists, and they made frequent visits around the world.
Q. And --
Well I'm focusing right now on the United States in the period from, say, 1955 to 1973 when this document was written. Can you tell me another individual from BATCo who came to the United States --
MR. McGAAN: Object.
Q. -- on the company's behalf?
MR. McGAAN: Object, asked and answered.
A. I was not working within the U.K. at that time, I wouldn't know, but I'm -- I'm pretty certain they would have done.

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Q. But you can't direct me to a single individual as you sit here.

You have to answer out --

MR. McGAAN: I object.

A. No, I can't --

Q. Okay.

A. I can't tell you a name.

Q. All right. According to the first page of Exhibit 1443, this report represents an overall survey of discussions the author had in the United States; right?

A. Could you repeat that?

Q. Yes.

According to the first page of Exhibit 1443, the report presents an overall survey of discussions the author had while visiting the United States.

A. That's correct. That's what it says here.

Q. Okay. Would you turn to the page that ends with Bates number 010. Could you read what's -- to yourself what's written there under 29 and 30. Also read 31, please.

MR. McGAAN: Marti, that's paragraphs 29, 30 and 31 --

MS. WIVELL: Yes.

MR. McGAAN: -- over the next few pages?

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MS. WIVELL: Right.

MR. McGAAN: Okay.

Q. All right. You've read it, sir?

A. I've read it. I don't understand, but I've read it.

Q. All right. This document at paragraphs 29, 30 and 31 refers to work that was done by a Dr. Loosli in California; right?

A. I don't know whether it says California, but Dr. Loosli.

MR. McGAAN: If you don't mind, why don't you look at paragraph 28 that starts at the prior page.

THE WITNESS: Okay, fine. Yes.

Q. All right. And paragraph 28 indicates Dr. Loosli was at the University of Southern California School of Medicine in Los Angeles.

A. That is what the document says.

Q. He was professor of medicine and pathology; right?

A. Correct.

Q. All right. And Dr. Loosli had subjected mice to smoke inhalation; right?

A. Correct.

MR. McGAAN: Let me just make a general

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objection so it's clear for the record, that the witness doesn't have a foundation to talk about Loosli's research, but he can read from the document as well as we can.

Q. And according to this document, one of the findings in the lungs of some of the mice was the presence of epithelial tumors derived from metaplastic proliferation of the bronchial epithelium; right?

A. That's what the document says.

Q. All right. Now that --

That's not in your area of expertise to interpret what that means; right?

A. That's correct.

Q. All right. But according to the document, whoever wrote it had received a confidential report of Dr. Loosli's work; right?

A. I believe that's what it says.

Q. All right. And it says in paragraph 29 "...I have brought back for their scrutiny," meaning pathologists, "a copy of Loosli's latest confidential report to C.T.R.;" right?

A. Yes, that's correct.

Q. Now according to Exhibit 1443, when CTR received Loosli's report, Dr. Charles Sommers, the research

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director, quote, hot-footed it to Los Angeles to look at Loosli's slides; right?

A. You have to help me again. Where does it say that?

Q. All right. Paragraph 31.

A. That's correct.

Q. Okay. And according to this document, Dr. Sommer's verdict was that the smoke had produced squamous metaplasia in the lungs of the mice; right?

A. That's what it says.

Q. Now this document also reports that Dr. R. B. Griffith had produced squamous metaplasia in the lungs of mice at Lexington, Kentucky after exposure to smoke for about six weeks -- or after exposing animals to smoke for about six weeks.

A. The lungs of mice, yes.

Q. All right. And Griffith had -- I'm sorry, strike that.

Loosli had examined Griffith's slides and considered that the lesions obtained by Griffith were identical to those that Loosli had obtained; right?

A. Correct.

Q. Griffith thought the lesions were tobacco-related; right?

A. That's correct.

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Q. Now Dr. Griffith had a relationship with Brown & Williamson; didn't he, sir?

MR. McGAAN: Object, vague as to time.

A. I don't know Dr. Griffith had a relationship with Brown & Williamson. I know that he became an employee of Brown & Williamson.

Q. All right. Well when did he become an employee?

A. I can't remember, but I know --

I'm sure he was the -- he was a member of Brown & Williamson in 1964 -- '65 when I visited Brown & Williamson.

Q. And how long did he remain a member of Brown & Williamson?

A. I really can't recall.

Q. Well give me your best approximation. Was it a year, two years, 10 years?

MR. McGAAN: Object, lacks foundation and calls for speculation.

A. I -- I really couldn't speculate.

Q. All right. You said you visited Brown & Williamson in 1963?

A. '65.

Q. I'm sorry.

What was the purpose of your visit, sir?

A. I was on a training visit, and I visited Brown &

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Williamson's factories.

Q. All right. And you did this as part of your employment at BATCo, right?

A. I was between positions. I was -- I'd left Indonesia and I was about to go to India. This was a sort of sabbatical, as I mentioned earlier.

Q. Just so -- I'm sorry. Just so we're clear, though, from the time -- from 1952 on, despite the fact that you were in Indonesia or India, you were a BATCo employee; weren't you?

A. I was employed by each of the companies that I went to, I had a contract with each different one.

Q. But as far as your retirement, for example, those years that you spent in Indonesia and those years you spent in India all contributed to the retirement that you are now enjoying as a result of your work for the BAT Group; right?

MR. McGAAN: Object, vague as to "contributed."

A. The companies that I worked for were obliged to contribute to a central pension fund, from which I now draw my pension.

Q. And all of the companies that you worked for, whether it be Indonesia or India or --

I think you said -- what was your first company

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in Africa?

A. Nigeria.

Q. -- Nigeria, those were all BAT Group companies; weren't they?

A. They were.

But I must correct myself. The pension that I draw from the BATCo pension fund does not include service in Brazil. That is -- I -- I receive a pension from the Brazilian company.

Q. And the Brazilian company is Souza Cruz; isn't it?

A. It's Souza Cruz.

Q. And that is the BAT Group company in Brazil.

A. That's correct.

Q. And as a matter of fact, the time that you spent at Brown & Williamson also contributes to that pension; doesn't it?

A. At the time I elected not to because I -- I was probably only going to stay for a short period in Brown & Williamson, I was coming up to retirement. I remained in the BATCo pension fund. Brown & Williamson contributed on my behalf to that fund.

Q. Now were you ever a member of the BATCo board?

A. Yes, I was.

Q. When were you a member of the BATCo board?

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A. 1977 until 19 -- until I joined Brown & Williamson in 1985.

Q. Now sir, getting back to Dr. Felton, Dr. Felton commonly wrote big reports about his visits to the United States; didn't he?

MR. McGAAN: Object. We've been over that. Lacks foundation.

A. I don't know because I -- I didn't receive them.

Q. All right. Well Dr. Felton's reports were kept in BATCo's files and would have been available to you had you wished to see them; right?

A. They would have been kept at the -- at the research facility, and if I'd had any interest, I presumably could have seen them.

Q. All right. As could other members of the BATCo board; right?

A. As could other members of the BATCo board.

MR. CASSIS: Marti, let's take a two- or three-minute break.

MS. WIVELL: Okay.

THE REPORTER: Off the record, please.

(Recess taken.)

BY MS. WIVELL:

Q. Sir, showing you what's previously been marked as Exhibit 3129, this is a report written by Dr.

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Felton on a visit to the United States that he made from April 19th to May 24th, 1971; right?

A. That's what the heading on the first page says.

Q. There's a stamp up at the upper right-hand corner that shows that this document was sent to Dr. I. W. Hughes; right?

A. Correct.

Q. Dr. Hughes was your predecessor as chief executive officer of Brown & Williamson; wasn't he?

A. That's correct.

Q. All right. Would you turn to the page that ends with Bates number 831 and read it and the little bit that's on the following page to yourself. You can start reading under the list of stars.

A. Would you give me those numbers again, please?

Q. Certainly, 831 and 832.

MR. McGAAN: Is this exhibit number from -- It's from another Minnesota deposition, --

MS. WIVELL: Yes.

MR. McGAAN: -- I take it?

Where do you want the witness to start, with the phrase "In the knowledge...?"

MS. WIVELL: Yes. Thank you.

Q. Are you done reading, sir?

A. I've finished reading it.

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Q. All right. This portion of Dr. Felton's report concerns a part of the trip that he spent in Louisville, right?

A. That would appear to be so.

Q. All right. And it talks about Brown & Williamson; doesn't it, sir?

A. It does indeed.

Q. And it talks about Project Truth; doesn't it?

A. It does.

Q. Now what was Project Truth?

A. I haven't the faintest idea.

Q. All right. It says here Brown & Williamson decided unilaterally it must attempt to counter the press indoctrination of the anti-smoking lobby; right?

A. Correct.

Q. All right. And did you understand that Brown & Williamson then embarked on Project Truth in order to try and re-establish that there was a controversy about whether cigarette smoking caused disease?

MR. McGAAN: Object. He testified he had no idea what Project Truth was.

MS. WIVELL: Object to your violation of the court's order.

MR. McGAAN: It's not a violation of the

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court's order, counsel.

You can answer if you know.

A. I was not aware of what Project Truth was, and this is the first time I've ever seen this document.

Q. All right. It says on page 831 of Exhibit 3129, "Accordingly, statements expressing an opposite viewpoint by competent doctors and scientists at the Senate Hearings on Cigarette Labelling were collated and presented in booklets, with the aim of re-establishing the controversy." Right?

A. That is --

You've read it correctly.

Q. All right. And it goes on to talk about how Brown & Williamson, in PR terms, had set up that the argument wasn't between Brown & Williamson and anti-smokers, but between scientists and the medicine, right?

MR. McGAAN: Object.

A. No. It says "between opposite views from science and medicine."

Q. All right. Well just so we're clear, the document says, "In PR terms, the argument was not between B&W and the anti-smokers, but between opposite views from science and medicine;" right?

A. That's correct.

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Q. And then it goes on to talk about presentations that Brown & Williamson personnel made to various news outlets; right?

A. This document says "The documents formed a one-hour presentation...." Doesn't say who gave the presentation, but "The documents formed a one-hour presentation...."

Q. And it goes on to say, "to authoritative organs of opinions, e.g. Time-Life-Fortune, Newsweek, Look, U.S. News and Views, National Review, and so forth." Right?

A. That's correct.

Q. It goes on to say, "It is considered that the project accomplished what it was set up to do;" right?

A. Correct.

Q. And it says --

And it goes on to say, for example, "'Time' did not make any anti-tobacco remarks for some months...;" right?

A. Correct.

Q. All right. Now sir, you are aware -- strike that.

By the way, all of these exhibits that we have seen so far in the deposition, the reports of visits,

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were available to you while you were a member of the BATCo board; right?

MR. McGAAN: Object, lack --

A. If I'd known about them.

MR. McGAAN: Object, lacks foundation.

Q. All right. But they were available to any one of the BATCo board members had they wished to go and review them; right?

MR. McGAAN: Same -- same objection.

A. Had they known about them.

Q. All right. Now sir, you are aware, aren't you, that the cigarette industry has taken the view that there is a controversy about whether cigarette smoking causes disease?

A. I am aware, yes.

Q. And you're aware of that from your experience both at BATCo and at Brown & Williamson; right?

A. Correct.

Q. And also from your experience as a member of the B.A.T Industries board of directors; right?

A. Correct.

Q. All right. Sir, you would agree, wouldn't you, that the tobacco industry has presented a united front on the issue of whether cigarette smoking causes disease?

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A. I'm not sure that I would say that the tobacco industry's presented a united front. Tobacco industry by and large finds it difficult to agree on many things.

Q. Well sir, isn't it true that it was thought that the tobacco industry would be less vulnerable to attack from opponents of smoking if it did present a united front?

A. I don't think so.

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 498, this is a document that begins with the Bates number 100428581; right?

A. Correct.

Q. And this is a document dated May 3rd, 1974 to all members of the conference; right?

A. That is correct.

Q. Do you know what conference it refers to?

A. No.

Q. You would agree that in your experience, Brown & Williamson, BATCo, BATUKE and the other BAT Group tobacco companies from time to time sent representatives to meetings at which common issues were discussed; right?

MR. McGAAN: Object, compound. You can answer if you know.

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A. Occasionally.
Q. You've attended such meetings; haven't you?
A. I have indeed, yes.
Q. All right. Would you please turn to the page that ends with Bates number 584 of Exhibit 498.
MR. McGAAN: 584 did you say?
MS. WIVELL: 584.
Q. At point 22 of Exhibit 498 it says, "The tobacco industry will be less vulnerable to attacks from opponents of smoking if it presents a united front;" right?
A. That's what it says here.
Q. Now sir, isn't it true that one of the things that the BAT Group did to address the issue of whether there was a controversy about smoking and health was that the Millbank public relations department of BATCo would communicate with other BAT Group companies the party line on answers to questions that were likely to arise in the smoking-and-health context?
MR. McGAAN: Object, compound, argumentative.
A. The public relations department at BATCo would communicate with other companies with regard to issues of smoking and health, yes, but it wasn't a

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party line.
Q. By the way, Millbank was the place where the public relations department was initially housed; right?
A. That is correct.
Q. And so if we see reference to public relations department at Millbank, we're talking about the BATCo public relations department; right?
MR. McGAAN: Well object to that, that -- that's vague. It depends. We'll see the reference you're referring to.
THE WITNESS: Do I --
MR. McGAAN: You can answer if you -- if you know.
A. We're talking BATCo in 1974. That was BATCo, British-American Tobacco Company.
Q. All right. Would you turn to the page of Exhibit 498 that ends with the Bates number 593. There is a chart entitled "SMOKING AND HEALTH;" right?
A. Correct.
Q. And it says under the "SMOKING AND HEALTH" category -- or heading, "RELATIONS WITH GOVERNMENTS, MEDICAL AUTHORITIES, INDUSTRY AND THE MEDIA;" right?
A. That's correct.

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Q. And at point x it says, "Public Relations department at Millbank will regularly review and communicate to all concerned, quote, party line, quote, answers to questions most likely to arise. (Including causation and the possible legislation of marijuana);" right?

A. That's what it says.

Q. And isn't it true that the BATCo public relations department, from the time that you joined BATCo until you left Brown & Williamson, did communicate the party line on questions relating to causation?

MR. McGAAN: Object, asked and answered.

You can answer again.

A. I was not aware of what the public relations department at Millbank was issuing until I returned to the United Kingdom in 1977.

Q. All right. Let me restate the --

A. But then they --

I was aware that they sent out information on smoking and health to the operating companies.

Q. And it was expected that, when they sent it out, the operating companies would follow those instructions; right?

A. They would use them as their guidance, yes.

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Q. Now sir, would you turn back to the page of Exhibit 498 that ends with Bates number 584. It says there at point 27, "The industry will continue to be criticized for spending much more on advertising than on health research;" right?

A. Correct.

Q. And isn't it true that BATCo spent much more on advertising its cigarettes than it did on research?

A. I don't recall. I imagine it would be, yes.

Q. Now sir, you were aware from the time you returned to BATCo in 1977 on that BATCo was trying to influence medical and scientific opinion about smoking and health; right?

A. I'm --

I can't recall how they were trying to influence.

Q. Well --

A. I'm not even aware they were.

Q. Well, sir, were you aware that BATCo was trying to encourage the industry to speak with one voice on the subject of smoking and health?

A. No.

(Plaintiffs' Exhibit 1444 was marked for identification.)

BY MS. WIVELL:

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Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1444, this is a document entitled "SMOKING AND HEALTH, STRATEGIES AND CONSTRAINTS;" right?

A. Correct.

Q. And Exhibit 1444 begins with the Bates number 110069867; right?

A. Correct.

Q. If we turn to the last page, we see that -- I'm sorry, strike that.

Now sir, according to this document, BATCo was trying to influence -- I'm sorry. Strike that.

According to Exhibit 1444, the BAT Group companies were trying to influence medical and official opinion concerning smoking and health; right?

A. Where does it say that in this document?

Q. Could you turn to page two and look in the second -- in the middle of the page.

A. Yes.

Q. There it says, "We should also influence as far as possible medical and official opinion against incautious imposition of constraints and any unnecessary restriction on smoking. To do this we must talk to medical authorities and Government

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agencies." Right?
A. Correct.
Q. And isn't it true that as of the time that this document, Exhibit 1444, was written, that it was the purpose of the BAT Group companies to get the industry in a particular country to speak with one voice on policy matters?
A. When was this written?
MR. McGAAN: Yeah, object, there's no foundation on the timeframe, Marti.
Q. Well let me ask it this way: Isn't it true that it was an objective of the BAT Group companies to get the tobacco industry to speak with one voice on policy matters?
MR. McGAAN: Object, he answered that before. You can answer again.
A. Where they were in agreement, yes.
Q. All right. Well sir, wasn't it BATCo's -- I'm sorry, strike that.
Wasn't it the BAT Group's purpose to try and get all the tobacco companies to speak with one voice on policy matters?
MR. McGAAN: Object, argumentative.
A. Where they were in agreement.
Q. Well sir, could you turn to the next page, the

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page that ends with Bates number 869 of Exhibit 1444. There at the top it says, "If it can be achieved it is better to speak as an industry and where this is possible BAT companies should seek to get the industry in any particular country to speak with one voice on policy matters?"

A. That is what it says.

Q. All right. And sir, isn't it true that during the time that you were with BATCo from 1977 to 1985 and continuing up to the time that you retired from Brown & Williamson, it was the BAT Group's intention to try and get the tobacco industry to speak with one voice?

MR. McGAAN: Object, asked and answered twice.

A. To the extent that we were in agreement on the approach, yes.

Q. And it was -- strike that.

Isn't it true that in the United States there was an agreed policy by the various tobacco manufacturers?

MR. McGAAN: Object, vague as to "policy" and timeframe.

A. "Agreed policy." What policy?

Q. To work together on smoking-and-health issues.

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MR. McGAAN: Same objection.

A. I think I've answered this about four times, but I'll do so once again: Where we were in agreement, then we would try to work together, yes.

Q. And there was agreement in the United States; wasn't there?

A. I don't know of any agreement.

Q. You would agree, sir, that when you returned to BATCo in 1977 you became aware of the fact that things that were said publicly were affected by the litigation climate in the United States?

A. No.

Q. Well sir, while you were serving on the BATCo board, you became aware that what was said publicly was significantly constrained by the U.S. legal situation; didn't you?

MR. McGAAN: Object, vague as to -- it's simply vague as to what you're talking about.

A. I'm not aware that -- that that weighed materially on what was said, but it may have done. But I have no --

I don't recall personally.

(Plaintiffs' Exhibit 1445 was marked for identification.)

BY MS. WIVELL:

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Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1445, this is a document that begins with Bates number 109877228; right?

A. Correct.

Q. And this is a memo written by Dr. Blackman; right?

A. That's what it says here.

Q. Now Dr. Blackman --

A. No. I'm sorry.

Q. I'm sorry.

A. Written to Dr. Blackman.

Q. By J. J. J. Moistyn?

A. Mostyn.

Q. Mostyn. What was --

Is it Mr. Mostyn?

A. Yes.

Q. And what is --

What was Mr. Mostyn's position?

A. I'm not sure, but I think he was in the public relations department.

Q. All right. And at the time this document was written in April of 1981, Dr. Blackman was head of research and development for BATCo; wasn't he?

A. Correct.

Q. In fact he replaced Dr. Felton in that position;

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didn't he?

A. No.

Q. Did Dr. Felton ever hold that position?

A. No.

Q. Now it says here in the second-to-the-last paragraph of the first page of Exhibit 1445, "We are still constrained severely in what can be said publicly by the US legal situation. Cannot more progress be made in this respect?" Right?

A. That's correct, that's what it says.

Q. Now if we turn to the bottom of the page that ends with Bates number 235 -- I'm sorry, strike that.

If we turn to the second page of Exhibit 1445, there are notes that are entitled "WORLD-WIDE POLITICAL AND SOCIAL ASPECTS OF SMOKING ISSUES;" right?

A. That's correct.

Q. And if we turn to the page that ends with 235 of Exhibit 1445, there is the conclusion or the beginning of the conclusion; right?

A. That is correct.

Q. It says under the heading "CONCLUSION," "Joint action at national level often mitigated by intercompany jealousy and rivalry. Therefore still not particularly effective. (Except USA and

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Germany)." Right?

A. That's what it says.

Q. And isn't it true, sir, that in the United States, by the time this document was written, there was an agreement that the industry would act with one voice and speak with one voice --

A. I was --

Q. -- on smoking-and-health issues?

MR. McGAAN: Object, asked and answered a number of times.

A. I was not aware of an agreement in 1981, which is when this document was written.

Q. Do you know what the joint action that's referred to in the conclusion of Exhibit 1445 refers to?

A. No, I don't.

Q. Now sir, you were on the BATCo board in 1981; weren't you?

A. I -- I was.

Q. All right. And the board approved B.A.T board strategies for smoking issues; didn't it?

A. I can't remember, but I imagine it did.

Q. Showing you what's previously been marked as Plaintiffs' Exhibit 788, these are the 1981 B.A.T board strategies smoking issues; right?

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A. Correct.
Q. You were on the board at the time these were approved; correct?
A. That's correct.
Q. Now what kind of process would the board go through in order to approve a document on smoking issues strategies? No, strike that.
What kind of a process did the BATCo board go through to adopt Exhibit 788?
A. I can't remember.
Q. Would a review of BATCo's files have been done at the time that this document was put together?
A. I don't know.
Q. But this document, you would agree, was intended to be provided to BAT Group companies to be used on the subject of smoking issues; right?
A. I don't know how it was used.
Q. Well how did the B.A.T -- strike that.
The BATCo board intended this document to be used by BAT Group companies in order to -- I'm sorry -- as part of its PR efforts; right?
A. I don't know.
Q. You've read this document; haven't you, sir?
A. I don't remember reading it.
Q. All right.

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MR. McGAAN: You mean -- you mean sitting here today, or back in 1981?

MS. WIVELL: 1981.

THE WITNESS: I don't remember reading it in '81.

Q. All right. Well would you have read it before you approved it?

MR. McGAAN: Object.

A. Probably.

MR. McGAAN: I don't -- I don't think it's been established it's been approved.

MR. CASSIS: Let me interrupt both counsel for a moment, and that is that I don't want any emotionally charged questions or any emotionally charged disagreements to create any problem with the continuation of Dr. -- I'm sorry, Mr. Ray Pritchard's deposition. I think we're getting along fine.

Q. Just so we're clear here, sir, you were on the board at the time this document was issued; right?

A. I was indeed.

Q. Would you turn to the third page of Exhibit 788. There is a part of the document that's headed "SMOKING ISSUES, ASSUMPTIONS," right?

MR. McGAAN: Flip back. She's talking --

THE WITNESS: I'm sorry, you -- I'm going

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by the numbers.

MR. McGAAN: She meant actually the third page in the document.

THE WITNESS: All right.

MS. WIVELL: No, I meant the fourth page.

MR. McGAAN: Third page of the document says "ASSUMPTIONS" on it. Did you want --

Give the Bates number, Marti.

MS. WIVELL: All right.

Q. Sir, directing your attention to the page that ends with Bates number 273, at the top of the page it says "SMOKING ISSUES."

MR. McGAAN: Yeah.

Q. "PART 1 ASSUMPTIONS;" right?

A. Correct.

Q. And if we look down to point ten it says, "The Tobacco Industry will only be able to defend itself against attack if it presents a -- a united response." Right?

A. That's what it says.

Q. And it goes on in the next point to say, "Competitors will honour industry agreements if it is to their advantage to do so."

A. That is correct.

Q. All right. What industry agreements are

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referred to here, sir?

A. I have no idea.

Q. All right. It also says at point seven, "Smokers will continue to look to the industry to develop products which the former consider will reduce the risks to health;" right?

A. Correct.

Q. Now sir, would you turn to the page that ends with Bates number 283. There at the top of the page it says "GENERAL STRATEGIES" under the heading "SMOKING ISSUES;" right?

A. Uh-huh. Correct.

Q. And it sets forth strategies to be used with governments, medical authorities, industry and the media; right?

A. It says "RELATIONS WITH GOVERNMENT, MEDICAL AUTHORITIES, INDUSTRY AND THE MEDIA."

Q. And it says that under the heading "GENERAL STRATEGIES." Right?

A. It does.

Q. And then there is a heading halfway down the page that says "Medical Controversy." Right?

A. Correct.

Q. And it says, "In view of the fact that the present stance of the industry lacks credibility with

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governments, the media and the general public, a new approach on the subject is being considered, details of which will be circulated to all companies in due course." Right?

A. Correct.

Q. Now this document, if it's the 1981 B.A.T board strategies smoking issues, would have been put together in 1980 or early 1981; right?

A. I would presume so, yes.

Q. And as a matter of fact, if we look at page two of the document, we see that it's dated March 1981.

A. Correct.

Q. Going back to the page that ends with Bates number 283 under the heading "Medical Controversy" in the "GENERAL STRATEGIES" section, at the bottom of the page it says, "It is essential that, on Smoking Issues, the industry speaks with one voice." Right?

A. Correct.

Q. And sir, isn't it true that at the time this document was written, in the United States the tobacco industry was speaking with one voice?

A. I don't know.

Q. Well isn't it true that BATCo and Brown & Williamson were trying to speak with one voice along with the other manufacturers on smoking-and-health

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issues?
A. BATCo's view was that the industry should speak with one voice. Whether it was able to achieve that, I'm not certain.
Q. Well it tried to achieve it; didn't it, sir?
A. Well it made an effort, I'm sure.
Q. All right. Now would you turn to the next page, sir. There at point 2.5 it talks about INFOTAB; right?
A. Correct.
Q. All right. You know what INFOTAB is; don't you?
A. I am familiar with INFOTAB, but I can't remember what it stands for.
Q. Okay. I'm not going to ask you what it stands for because I understand it's French, but you would agree that INFOTAB was the PR arm of a group called CORESTA; right?
A. I'm not certain. CORESTA was a different organization.
(Discussion off the stenographic record.)
Q. Well what did you understand INFOTAB to be?
A. I --
My recollection is that it was a public relations organization --
Q. And it was --

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A. -- providing information.
Q. Who were members of INFOTAB?
A. I have no --
I can't remember.
Q. BATCo was a member of INFOTAB, though; wasn't it?
A. It was.
Q. B.A.T Industries was a member of INFOTAB; wasn't it?
A. B.A.T Industries was not a member of INFOTAB.
Q. You understood that the purpose of INFOTAB was to provide a forum on smoking-and-health issues; right?
A. And other information, as I recall.
Q. And INFOTAB'S purpose was also, on smoking-and-health issues, to establish the industry's position and to provide credibility in that area; right?
A. I'm not certain.
Q. Sir, showing you what's been previously marked as Plaintiffs' Exhibit 3530, this is a document that begins with the Bates number 104576617; right?
A. Correct.
Q. Have you seen this document before, sir?
A. I must have done, but I don't recall it.

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Q. Why do you say you must have?
A. Well I was there in 1983.
Q. You would have received a copy of this document?
A. Possibly.
Q. For the record, the document is Bates -- dated September 20th, 1983, and is a letter to all number ones of operating companies; right?
A. Correct.
Q. Now when we see something that's sent to all number ones of the operating companies, that means it was sent from the source to the chief executives of all of the tobacco operating companies; right?
A. No.
Q. All right. Who would --
A. It would have been sent to all --
This is a British-American Tobacco Company document.
Q. All right.
A. B.A.T Industries has already been formed. This would have gone to all the companies that British-American Tobacco Company was responsible for.
Q. All right. Would it also have gone to Brown & Williamson?
A. No. I doubt it, --
Q. Well sir --

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A. -- because it's not an operating company of British-American Tobacco Company.
Q. All right. This document concerns relations with INFOTAB; doesn't it?
A. That's what it says.
Q. All right. Why don't you take a moment and read it.

(Discussion off the stenographic record.)

Q. You've read Exhibit 3530?
A. I have indeed.
Q. All right. Now Exhibit 3530 gives us some information about INFOTAB; doesn't it?
A. It does.
Q. It says "...the prime purpose of INFOTAB is to provide a forum on smoking and health issues and to establish the industry's position and credibility in this area...;" right?
A. I'm sorry, can you point me to that?
Q. Yes. On the second page, the paragraph that begins "On 9th September...." I'm sorry, the second paragraph that begins with "On 9th September...."
A. The paragraph says, among other things, "made a mockery of industry co-operation on smoking and health issues...?"
Q. All right, I -- I'm looking at the second

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paragraph down from that.

MR. McGAAN: The one that talks about the prime --

A. I see.

Q. All right. The document says that INFOTAB'S prime purpose is to provide a forum on smoking-and-health issues and to establish the industry's position and credibility in this area; right?

A. That's correct.

Q. And you understood that that was what the purpose of INFOTAB was.

A. Having read this now, I -- I recall that, yes.

Q. Okay. Philip Morris was a member of INFOTAB; wasn't it?

A. It was.

MR. FRYKBERG: Object to form.

Q. R. J. Reynolds was a member of INFOTAB; wasn't it?

A. It may have been. I can't recall.

Q. Brown & Williamson was a member of INFOTAB; wasn't it?

A. I don't think it was.

Q. It was a member through its -- the BAT Group membership; right?

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A. BATCo was a member.

MR. McGAAN: Object, lacks foundation.

Q. What other companies were members of INFOTAB, sir?

A. I really can't remember. I think SEITA was, but I'd be speculating.

Q. But you do recall that Philip Morris and R. J. Reynolds were.

A. That's correct.

Q. Now sir, you encouraged BATCo employees to participate in INFOTAB; didn't you?

A. I didn't encourage anyone.

(Plaintiffs' Exhibit 1446 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1446, this is a document that bears the Bates number 107472098; right?

A. Correct.

Q. Would you please read it to yourself.

A. Yeah.

Q. All right. This document refers to you; doesn't it, sir?

A. It does indeed.

Q. All right. And it says that you encouraged --

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or I'm sorry, you felt strongly "we should not use CORESTA, but should go through INFOTAB."

A. That's what it says --

MR. McGAAN: Object.

A. -- here, but --

MR. McGAAN: Let me object before you answer that the question is misleading. The document says more than that.

Go ahead and answer.

A. That was with regard to this particular proposal, which was on the standard method of measuring paper permeability.

Q. Okay. Now this document also says, "Dr. Blackman informs me that ICOSI has now been renamed: "INFOTAB;" right?

A. That's correct.

Q. What was ICOSI?

A. I can't remember.

Q. It was an organization of tobacco manufacturers; wasn't it?

A. I believe so.

Q. All right. And ICOSI or INFOTAB was a group that was set up so that tobacco industry manufacturers could communicate with one another and try and work together; right?

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MR. McGAAN: Object, it calls for speculation in light of the testimony elicited.

A. As was mentioned earlier, INFOTAB was, I believe, an arm of CORESTA. CORESTA had many subcommittees to address various issues.

Q. But you would agree that one of the prime purposes of INFOTAB or ICOSI was to try and establish a joint industry position on smoking-and-health issues.

MR. McGAAN: Object, lacks foundation in light of the testimony you've already elicited.

A. That may well be true. I'm not --

I can't remember.

Q. Well that's essentially what it says on the second page of Exhibit 3530; isn't it?

A. That's what it says there.

Q. And as a matter of fact, if we go back to the B.A.T board policies for 1981, Exhibit 788, it says there INFOTAB has been established at -- I'm sorry, it says there "A forum (INFOTAB) has been established at which international companies can discuss issues of mutual interest in the field of smoking and health in order to agree a common position where possible." Right?

MR. McGAAN: You've got to direct the

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witness to where you're reading from.
A. Can you tell me where I can find it?
Q. Okay. I'm directing your attention to page 284 under point 2.2.
A. I believe you read it correctly, yes.
Q. All right. Let me go back and try it again since the record might be a little unclear.
According to Exhibit 788, INFOTAB had been established as a forum at which international companies could discuss issues of mutual interest in the field of smoking and health in order to agree a common position; right?
A. Where possible.
MR. McGAAN: Objection.
Q. But you would agree with that; right?
A. Well that's what it says here.
Q. Okay. And --
And sir, you have no information to contradict what it says here; do you?
A. I have none.
Q. It goes on to say in Exhibit 788, "This should assist in the uniformity of approach - and action where necessary." Right?
A. Correct.
Q. It goes on, "Companies will continue to be

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advised of the areas in which a common position has been reached by INFOTAB and also of certain constraints that INFOTAB has accepted. Company policies should conform with this advice." Right?

A. That's correct.

Q. Now sir, you know from reading Exhibit 3530 that the industry had agreed, through INFOTAB, not to make health claims in advertising for cigarettes; right?

A. This 3530 refers to advertising in Holland, which was illegal.

Q. Well if we turn to the second page of Exhibit 3530, there's reference to the chairman of B.A.T Industries sending a telex to the chief executive of Philip Morris protesting events that occurred in Holland; right?

A. That's correct.

Q. And he protested the fact that Philip Morris had in Holland run an ad which raised the health issue to try and gain competitive advantage; right?

A. Correct.

Q. Okay. And as a matter of fact, at the time this document was written, the chairman of B.A.T Industries was Patrick Sheehy; right?

A. Yes, that's correct.

Q. So Mr. Sheehy had written, as chair of B.A.T

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Industries -- or I'm sorry, strike that.

Mr. Sheehy, as chair of B.A.T Industries, had sent a telex to Philip Morris pointing out that Philip Morris's action, quote, "made a mockery of industry cooperation on smoking and health issues."

MR. PULTMAN: Objection, no foundation.

A. That's what it says here.

Q. Now sir, you were a member of the BATCo board at the time this occurred; right?

A. That's correct.

Q. And sir, the incident, the Holland incident that's referred to here, was discussed by the BATCo board; wasn't it?

A. I'm not sure that it was discussed. I don't remember it.

Q. All right. Well do you remember discussing it with Mr. Bruell?

A. No, I don't.

Q. By the way, Mr. E. A. Bruell was CEO of BATCo; wasn't he?

A. He was the chairman of BATCo.

Q. And do you recall that at the time that he -- I'm sorry. Strike that. Do you recall -- strike that.

He was also a member of the B.A.T Industries

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board of directors; wasn't he?

A. Yes, he was.

Q. And at the time that the Holland incident occurred, Mr. Bruell phoned the chief executive of Philip Morris to complain about Philip Morris's using the health issue to its competitive advantage; right?

MR. FRYKBERG: Object to form.

MR. McGAAN: Object.

A. I don't know.

Q. Have you ever seen a document where Mr. Cullman is quoted as saying the industry should hang together?

A. I saw a document yesterday.

Q. And in that document --

And it referred to a phone call that occurred concerning this incident; didn't it, sir?

A. That's correct.

Q. And in that call Mr. Bruell -- I -- strike that.

Mr. Bruell had made the call to the chief executive of Philip Morris; right?

MR. McGAAN: Object, lacks foundation about the call.

A. It was a note about the call. Whether the call actually took place or not, I have no way of knowing.

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Q. All right. But at least according to the note about the call, Mr. Cullman said the industry should hang together; right?

MR. McGAAN: Object. I'm sure we've got the document here if we want to test the witness's ability to read it.

If you recall what the document said precisely, you can tell her.

A. I can't recall what it said precisely, but it did refer to a call.

Q. And it referred to the industry hanging together; right?

A. I can't remember about hanging together, but I know it was about the Holland -- this Holland incident.

Q. All right. Now as a result of the Holland incident, Patrick Sheehy, as chair of B.A.T Industries, withdrew from INFOTAB; didn't he?

MR. PULTMAN: Object to the form of the question, no foundation.

A. Well he wasn't a member of INFOTAB, it was B.A.T --

BATCo was a member of INFOTAB.

Q. Well then -- strike that.

But B.A.T Industries' chair, Patrick Sheehy,

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sent a telex withdrawing from INFOTAB; didn't he?

MR. PULTMAN: Objection, foundation.

MR. McGAAN: Object.

A. I don't know.

Q. You saw that document yesterday; didn't you, sir?

A. Which document?

Q. The telex that Mr. Sheehy sent.

A. I didn't see --

I don't think I saw the telex Mr. Sheehy sent.

Q. All right. There is a reference to a telex here in which BATCo withdrew from INFOTAB, right?

A. It says B.A.T has decided to withdraw from INFOTAB, and I -- I interpret that to mean the tobacco companies.

Q. Now sir, in your last answer, what do you mean when you're saying "the tobacco company?"

A. That there would be no purpose in anything other than the tobacco companies being a member of INFOTAB.

Q. Because INFOTAB was set up to address --

A. As part of --

MR. McGAAN: Wait, let her finish.

THE WITNESS: I'm sorry.

Q. INFOTAB was set up as part of CORESTA to address cigarette issues; right?

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A. Correct.
Q. All right. And you do recall that at the time, as a result of the Holland incident, BATCo did withdraw from -- from INFOTAB.
A. That's what this says.
Q. Did BATCo ever go back to being a member of INFOTAB?
A. I don't know.
Q. Do you have any information that contradicts the fact that Chairman Sheehy sent a telex to Mr. Weissman, chief executive of Philip Morris?
MR. PULTMAN: Object, no foundation.
MR. FRYKBERG: Object to form.
A. No, I don't.
Q. Now sir, were you aware that, before INFOTAB was called, that -- I'm sorry, strike that.
Were you aware that, before ICOSI changed its name to INFOTAB, that it had embargoed the tobacco companies', who are its members, work associated with the pharmacology of nicotine?
MR. McGAAN: Object, lacks foundation.
A. I have no knowledge of that.
Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 453, this is a document that begins with the Bates number 110083647; right?

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A. That's correct.
Q. All right. Exhibit 453 is a strictly confidential note on a BAT/ITL joint meeting held at Southampton on the 25th of October of 1978; right?
A. Correct.
Q. I would like you to turn to the portion of the document beginning at page two that's under the heading "ICOSI" and read the document through to the end, please.
You've read the document, sir?
A. I have indeed.
Q. Thank you.
Now Exhibit 453 talks about ICOSI; right?
A. It does.
Q. And you now recall that ICOSI was the predecessor organization to INFOTAB; right?
A. I do.
Q. Okay. Now at the bottom of the third page of exhibit 649 there is reference to an Ed Jacob.
A. Yes.
Q. You've met Mr. Jacob; haven't you?
A. I don't --
I don't recall the name at all.
Q. All right. Do you understand that he was a lawyer from the United States?

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A. No.
Q. Well it says at the bottom of the page, "At ICOSI, Ed Jacob advised a total embargo on all work associated with the pharmacology of nicotine and the benefits conferred by smoking for three reasons...;" right?
A. Correct.
Q. Now the -- the reasons are listed on the next page of Exhibit 453; right?
A. Correct.
Q. The first is "The pending California lawsuit which indicted nicotine as an addictive substance;" right?
A. Correct.
Q. And it goes on to say in the next reason for embargo of all work associated with the pharmacology of nicotine was that "TI, C.T.R. and ICOSI were only exempt from anti-trust proceedings as long as they were concerned with work on smoking associated diseases. Benefits were expressly excluded from collaborative studies." Right?
A. Correct.
Q. Were collaborative studies done under ICOSI?
A. I have no idea.
Q. Well was ICOSI a formally incorporated company?

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MR. McGAAN: Object, lacks foundation.

A. I don't know.

Q. Do you know if ICOSI was exempted from antitrust proceedings?

A. No.

Q. You just don't have any --

A. I don't.

Q. -- information one way --

A. I don't.

Q. -- or the other; right?

A. Correct.

Q. Now it says, if we go down to the paragraph under point iii, "ICOSI had agreed with this policy and Jacob had been sent to stop the Verband programme on nicotine;" right?

A. Correct.

Q. Do you know to what that refers?

MR. McGAAN: Object, foundation.

A. What refers?

Q. That sentence we just read, what does that refer to?

MR. McGAAN: Lacks foundation.

A. Well it says "...Jacob had been sent to stop the Verband programme on nicotine."

Q. What was the Verband program on nicotine?

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A. Verband --

I don't know what the Verband program was, but I know what Verband was.

Q. Okay. What --

A. It's the association of German manufacturers.

Q. German tobacco manufacturers.

A. I'm sorry, German tobacco manufacturers.

MS. WIVELL: All right. Why don't we take a break.

MR. CASSIS: I was getting ready to call for that.

THE REPORTER: Off the record, please.

(Recess taken.)

BY MS. WIVELL:

Q. Sir, could you get out Plaintiffs' Exhibit 788, please.

Do you have Exhibit 788 out before you?

A. I do.

Q. That's the 1981 B.A.T board strategies smoking issues document.

A. That's correct.

Q. Would you turn to the page -- I'm sorry.

Before you do that, would you agree that the document, Exhibit 788, was adopted by the board with the intention that it be utilized by other BAT Group

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companies?

MR. McGAAN: Lacks foundation.

A. Be used by tobacco companies within the BATCo remit.

Q. Well sir, it was also sent to Brown & Williamson; wasn't it?

A. I don't think so.

Q. Well sir, this document says at the top "(B&W) PROTECTED BY MINNESOTA TOBACCO LITIGATION PROTECTIVE ORDER." It was produced by Brown & Williamson; wasn't it?

MR. McGAAN: Object. There's no way he can know --

A. I have no idea.

MR. McGAAN: -- why that is there.

Q. Well sir, this document was written with the intention that all of the BAT Group tobacco companies would follow it; wouldn't it?

A. The BATCo companies.

MR. McGAAN: But wait, listen -- listen to her question.

Q. Let me repeat it.

This document was written with the intention that all of the BAT Group tobacco companies would follow it; right?

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MR. McGAAN: Object, lacks foundation.
You can answer.
A. I think the confusion is my understanding of this document is that this was approved by the BATCo board for use by the BATCo companies, which did not include Brown & Williamson.
Q. Well then why would it have been sent to Brown & Williamson?
A. I have no idea.
MR. McGAAN: Object. You haven't established it was, counsel.
MS. WIVELL: Well counsel, it was produced by Brown & Williamson, so --
MR. McGAAN: Yeah, but -- but you and I aren't testifying here. You haven't established through this witness that it was sent as a historical fact to Brown & Williamson.
BY MS. WIVELL:
Q. Now sir, you would agree that when communicating with the public, BATCo had an obligation to speak accurately; right?
A. We always tried to.
Q. Well you --
You would understand that it had an obligation to do so; right?

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A. That's correct.
Q. Because it would be inappropriate to provide false or misleading information to the public; right?
A. That's right.
Q. It would also be inappropriate to provide false or misleading information in a document such as Exhibit 788 to other members of the BATCO Group of companies; right?
A. Uh-huh. Correct.
Q. Would you turn to the page that ends with Bates number 301. There is a heading entitled "Nicotine" under "Constituents;" isn't there, sir?
A. There is.
Q. Would you read that to yourself, please.
You've read it; right?
A. I've read the paragraph (a).
Q. All right. The last sentence of the paragraph, the second paragraph under the heading "Nicotine," says, "There is much evidence to support the view that nicotine in the quantities absorbed by smoking or other forms of tobacco use does not present a health problem." Right?
A. That's correct.
Q. Now this document doesn't give any information to the reader about the JANUS project that was

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undertaken by BATCo; does it?

A. JANUS products, I -- projects. I don't know what JANUS projects were.

MR. McGAAN: Let me object also because it's clear the witness hasn't read through the whole thing. If you represent that Project JANUS isn't mentioned in the document, we'll take your representation.

Q. Sir, are you familiar with Project JANUS?

A. No, I'm not.

Q. Well there's no reference here to any of the results from Project JANUS; is there?

A. I don't know.

Q. Well, do you see it under the heading "Nicotine?"

A. No.

MR. McGAAN: Oh, you mean just in --

Your question before was the whole document, Marti. You mean does the word Project JANUS appear in this paragraph?

Q. Sir, let me ask you this: Did the BATCo company ever provide anyone with information to use with -- in -- in media or other public relations efforts concerning Project JANUS?

MR. McGAAN: Object, lacks foundation.

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A. I don't know. I don't know what Project JANUS was.
Q. Well you understand that BATCo had in the early '70s agreed it was important to examine the effect of nicotine on tumorigenicity; don't you?
A. I don't.

(Plaintiffs' Exhibit 1447 was marked for identification.)

BY MS. WIVELL:
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1447, these are notes of a biological research held at the R&D facility in Southampton December 13th, 1974; right?
A. It says minutes, "BIOLOGICAL RESEARCH MEETING, Minutes of the Meeting held in Southampton," doesn't say where, on the 13th of December.
Q. And according to Exhibit 1447, those present included Geoff Felton, Dr. F. Seehofer, Richard Binns, and Dr. S. R. Evelyn; right?
A. Correct.
Q. Now for the record, 1447 begins with the Bates number 103474182; right?
A. Correct.
Q. Now sir, would you turn your attention to the page that ends with Bates number 185, and I would

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appreciate it if you would take the time to read the next two pages, the one that ends with Bates number 185 and 186.

Are you done, sir?

A. I have read it, yes.

Q. Now the people who were present at this meeting with Geoff Felton were all BATCo R&D employees; weren't they?

A. No.

Q. Who was not?

A. Dr. Seehofer.

Q. By whom was he employed?

A. He was employed by B.A.T Germany.

Q. That's B.A.T Cigaretten Fabriken?

A. B.A.T Cigaretten Fabriken, yes.

Q. But the rest --

The other three, Binns, Felton and Evelyn --

A. That's correct.

Q. -- were employees of BATCo.

A. They were indeed.

Q. If we turn to the page ending with Bates number 185, there's reference there to general agreement that it was most important to examine the effect of nicotine on tumorigenicity; correct?

A. Right.

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Q. And it says this was supported by comments received from Mr. Gibb and Dr. Hughes.
A. Correct.
Q. Now we know that Wally Hughes was your predecessor as CEO of Brown & Williamson. Who was Mr. Gibb?
A. He was, if my memory serves me correctly, he was a scientist with Imperial Tobacco Canada.
Q. And that's another associate company within the BAT Group; right?
A. It's within the B.A.T Industries group because it is -- it --
B.A.T has a 40 percent interest in it.
Q. Now toward the bottom of the page there is reference to the fact that DGF --
That's Felton, right, Geoff Felton?
A. I would imagine so. Those are his initials.
Q. -- pointed out that many people outside B.A.T would be interested in the results of the experiment that we were just talking about; right?
A. Correct.
Q. And he even talks about publishing the result; didn't he?
A. I can't --
MR. McGAAN: Object, misleading, assumes

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facts not in evidence.

A. I can't see it.

Q. Well it says in the middle of the second-to-the-last paragraph, "The possible necessity of publishing the results was also considered. If the results were adverse they would be of real value in sounding an early warning that nicotine levels should be reduced and that a socially acceptable alternative to nicotine should be sought." Right?

A. That's correct.

Q. Now sir, would you turn to the next page. There is reference there in the second paragraph to Dr. Lee. That's the Dr. Lee that we were talking about earlier in the deposition who was a consultant to BATCo; right?

MR. McGAAN: Let me object. That mischaracterizes what -- what the witness said about Dr. Lee, maybe not what you said about him.

A. I'm sorry, would you repeat the question?

Q. Yes, sir.

If we turn to the next page, we see reference in the second paragraph to Dr. Lee. We've seen reference to him earlier as a consultant to BATCo; right?

A. We have.

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Q. All right. And it says in the second paragraph, "Lee had noted that when skin-painting was deliberately stopped at different stages in a mouse skin experiment, the tumor incidence followed a pattern similar to that found for humans who stopped smoking;" right?

A. That's correct.

Q. Goes on to say, "This led Lee to suggest that the mechanism operating in mouse skin experiments was similar to that in man;" right?

A. Correct.

Q. And he said, "Thus the mouse skin painting test might be considered as a model for the human situation...." Right?

A. Correct.

Q. Now sir, you understand that mouse skin-painting tests were undertaken at the request of BATCo; right?

A. I was aware that mouse skin-painting tests were undertaken, yes.

Q. (Coughing.) Pardon me.

And you understand that they were not done -- strike that.

Mouse skin-painting tests were not done at Brown & Williamson; were they, sir?

A. I don't know.

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Q. Mouse --

You do know that mouse skin-painting tests were done at the Canadian associate company.

A. I don't.

Q. Well sir, would you turn to the last page of the document. There it says at the top of the page, "It was agreed in principle that a long-term experiment should be undertaken to examine the effect of nicotine reinforcement on tumorigenicity;" right?

A. Correct.

Q. And it says, "The experiment is also of interest to people outside B-A.T. and, if nicotine has no adverse effect, full value of the results would only be achieved by publication;" right?

A. Correct.

Q. Now sir, did you understand that mouse skin-painting tests were undertaken on behalf of BATCo to look at the effect of nicotine on tumorigenicity?

A. I wasn't aware of it.

Q. The entire time you were on the BATCo board you never became aware of experiments that were done to look at that issue?

A. I was aware that mouse skin-painting had been done, but for what purpose I was not aware.

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Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 308, this is a document that begins with the Bates number 105504185; right?

A. Correct.

Q. And it is a report from Wickham Research Laboratories on -- I'm sorry, strike that.

It is a report from Wickham Research Labs; isn't it, sir?

A. That's what it says.

Q. And if we turn to the second page of Exhibit 308, we see that it is a study entitled "A STUDY ON THE TUMOR PROMOTING ACTIVITY OF TOBACCO SMOKE CONDENSATES APPLIED TO MOUSE SKIN: CIGARETTES B13/1-8;" right?

A. Correct.

Q. According to the second page of Exhibit 308, it was a report prepared for BATCo; right?

A. For British-American Tobacco Company, yeah.

Q. For BATCo; right?

A. Yes.

Q. Now sir, have you ever seen this document before?

A. No.

Q. Did anyone ever share the contents of this document with you?

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A. No.
Q. All right. Would you turn to the page that ends with the Bates number 188. There it says "SUMMARY;" right?
A. Correct.
Q. And it tells us that in this study the tumor-promoting activity of cigarette smoke condensate was investigated in female mice; right?
A. That's what it says.
Q. If we turn to the next page, at the top of the page the summary goes on to say, quote, "From these it was inferred that the promoting activity of condensate from control tobacco exceeded that of condensate from reconstituted tobacco." Right?
A. Correct.
Q. If we go on to the next page, the page that ends with Bates number 190, according to the second paragraph of the document, the experiment was designed by BATCo and performed on its behalf by Wickham Labs between July 1974 and March 1975; right?
A. Correct.
Q. And according to this document, the prime objective of this study was to measure the promoting activity and to compare the carcinogenicity or oncogenicity of 12 different condensates applied

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three times a week at two dose levels for a minimum period of six months; right?

A. Correct.

Q. And what they were trying to do was to determine whether pure carcinogens enhance the tumorigenic effect of smoke condensate; isn't that right?

A. I don't know.

MR. McGAAN: Object, lacks foundation.

Q. Well it says in the first paragraph, "In mouse skin painting studies pre-treatment with a pure carcinogen enhances considerably the tumorigenic effect of condensate subsequently applied and this concept of a two-step carcinogenesis has now become a well established technique for investigating the biological activity of cigarette smoke condensate;" right?

A. That's what it says.

Q. All right. Now would you turn to the discussion that begins on page -- the page that ends with Bates number 243, and would you read to yourself that page, please, or read the first two paragraphs.

A. 243?

Q. Yes.

Sir, you've now read it?

A. Those two paragraphs, yes.

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Q. All right. There in the middle of the second paragraph it refers to tumors that resulted after the mice had had the condensate painted on them; right?
A. It says, "Tumours first appeared during the 11th week of condensate painting...."
Q. And it goes on to say "...it is reasonable to assume that most of these tumours were caused by the promoting activity of condensate." Right?
A. Correct.
MR. McGAAN: Object. You've left part of the sentence out of your question.
Q. The first part of the sentence says, "Although in this laboratory, data for long-term skin painting are unavailable it is reasonable to assume that most of these tumours were caused by the promoting activity of condensate." Right?
A. That's what it says.
Q. And it goes on to say, "The tumorigenic effect of the initiator alone was obviously slight;" right?
A. Correct.
Q. Now sir, did anyone ever share the information that we've looked at from Exhibit 308 with you while you were on the BATCo board?
A. No.
Q. Did anyone ever share the information that is

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contained in Exhibit 308 while you were chief executive of Brown & Williamson?

A. No.

Q. Do you know if Brown & Williamson has ever shared the information that's contained in this document with anyone?

A. I don't.

MR. McGAAN: Lacks foundation.

Q. Do you know if BATCo has ever shared the information contained in this document with anyone?

A. I do not.

MR. McGAAN: Lacks foundation.

Q. Now sir, the tests that are referred to in Exhibit 308 are short-term tests; right?

MR. McGAAN: Object, lacks foundation.

A. It would appear to be.

Q. That's because it says there is no long-term data; right?

MR. McGAAN: Object. It doesn't follow.

A. It says the experiments were terminated in 30th and 31st weeks.

Q. That's relatively short-term; isn't it?

MR. McGAAN: Well let me object. The -- the --

This is a term of art in the field of

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toxicology, counsel. You know it. This witness doesn't have a basis to engage in a discussion under oath about what "short term" means, so my objection is it really emphatically lacks foundation.

Q. Sir, do you understand what the term "short term" means?

A. I don't know what short term --

I know what the term "short term" means, but I don't know what it means with regard to scientific experiments.

Q. Well sir, did you understand or did anyone ever tell you that the mouse skin-painting studies -- I'm sorry, strike that.

Did anyone ever tell you that mouse skin-painting studies of a long-term nature were done as part of the JANUS experiment program?

A. No.

(Plaintiffs' Exhibit 1448 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 140 -- I'm sorry.

Showing you what's been marked as Plaintiffs' Exhibit 1448, this is a document that begins with Bates number 103473113; right?

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A. Correct.
Q. And it is entitled "Experiment B14, Interim Results to Week 76." Right?
A. That's correct.
Q. Have you ever seen this document before?
A. No.
Q. Why don't you take a moment and read it.
THE REPORTER: Let's go off the record a moment, please.
(Discussion off the record.)
BY MS. WIVELL:
Q. You've read the document, sir?
A. I have.
Q. All right. Exhibit 1448 gives interim results of mouse skin-painting studies; doesn't it, sir?
A. It does.
Q. And it says, "From the statistical analysis of the results for each type of cigarette...it is now clear that the tumorigenicity of condensate from sample B14/4, which has the highest level of added nicotine, is sufficiently" -- or "significantly higher than that from the other three samples." Right?
A. Correct.
Q. And in fact, sir, according to this report there

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was a clear difference between the number of tumors that were -- that resulted from the condensate from the B14 and that from other samples; right?

A. Correct.

Q. And it --

The document expresses the fact that that difference was of, quote, obvious concern, close quote; right?

A. Correct.

Q. And as a matter of fact, there was a concern that there might be a dose/response relationship between the amount of nicotine that had been added and the number of tumors; right?

MR. McGAAN: Object, mischaracterizes what the document says.

A. It says, "The progress of the experiment will be kept under scrutiny to see whether there is any change and particularly to determine whether the tumurigenicity of condensate from samples with nicotine added at the low (B14/2) and intermediate (B14/3) levels increase to produce a dose-response...."

Q. In other words, the author of this document was concerned to see whether the experiments did show a dose/response relationship; right?

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MR. McGAAN: Lacks foundation.

A. It would appear to.

Q. Did anyone ever share this information that's contained in Exhibit 1448 with you while you were either at BATCo or B&W?

A. No.

(Plaintiffs' Exhibit 1449 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Exhibit 1449, this is a document that is entitled "Visit to U.S.A. & Canada, 16.10.79 through 26.10.79;" right?

A. Correct.

Q. Now this is a trip report that was written by Richard Binns.

A. Correct.

Q. And at the time Mr. Binns made this -- or wrote this document and made the trip, he was a BATCo employee; right?

A. I believe that's correct, yes.

Q. For the record, this document does not have a Bates number, but up in the upper right-hand corner has a handwritten R2 at the top. The last page has up at the top the handwritten notation 03.

A. Correct.

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Q. Now sir --

MR. McGAAN: Marti, before you go on, just for my benefit, is there any particular significance to the missing Bates number, or is this a document you just got out of the depository and this is the way it looked?

MS. WIVELL: This is how I got it exactly, unBates numbered.

MR. McGAAN: Okay.

MS. WIVELL: Which astonished me.

BY MS. WIVELL:

Q. Sir, would you take a moment --

MR. CASSIS: Excuse me. Have you put a number on it for purposes of this deposition?

MR. McGAAN: Yeah.

MR. CASSIS: Oh, I'm sorry, 1449.

MS. WIVELL: Exhibit 1449.

Q. Mr. Pritchard, could you please take a moment and review the second page of the document and then the document that has Y2 up at the top.

Are you ready, sir?

A. I am.

Q. All right. In his trip report, Exhibit 1449, at the second page, Dr. Binns talks about a meeting he had at Brown & Williamson in October of 1979; right?

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A. Correct.
Q. And according to the second page of the exhibit, he says, "A survey of the results of the B14 study was given." Right?
A. That's correct.
Q. Now the B14 study, that's the study that we just looked at, the interim results to week 76 in Exhibit 1448; right?
A. I would presume it's the same.
Q. Well it says at the top of Exhibit 1448 "Experiment B14." Right?
A. Yeah.
Q. Now if we turn to the page of Exhibit 1449 that has Y2 at the top, there is more information concerning the B14 study; right?
A. The only reference to B14 is in the -- the latter paragraphs --
Q. All right.
A. -- starting with "Dr. Bilimoria...."
Q. All right. Now sir, the page that has Y2 written at the top of it that's part of Exhibit 1449 concerns Dr. Binns' visit to Imperial Tobacco in Montreal; right?
A. It would appear to, yes.
Q. And there it says, "Dr. Bilimoria has worked on

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the B14 samples and in a meticulous and thorough piece of work has shown a clear relationship between the level of nicotine added to cigarettes and the mutagenic activity of condensates." Right?

A. That's correct.

Q. Goes on to say, "This result is of interest in relation to the long-term study on B14 samples, and to the general debate on mutagenicity and carcinogenicity testing;" right?

A. Correct.

Q. Now sir, has BATCo ever shared the results of Dr. Bilimoria's work on the B14 samples with the people that smoke its cigarettes?

A. I don't know.

Q. Does Brown & Williamson --

Has Brown & Williamson ever shared the information that's contained here about Dr. Bilimoria's work showing a relationship between nicotine added to cigarettes and the mutagenic activity of smoke condensate?

MR. McGAAN: Lacks foundation.

A. I don't know.

Q. Can you direct us to any one instance where anyone in the BAT Group has disclosed the JANUS B14 work that we have seen referred to in these last few

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documents?

A. I don't --

MR. McGAAN: Lacks foundation.

A. I have no -- no knowledge in that area. But I would point out that we do not add or did not when -- during my tenure add nicotine to cigarettes.

Q. Now sir, do you understand why nicotine was added in these studies?

A. I don't. I don't.

MR. McGAAN: Lacks foundation.

Q. And you have no information which contradicts the statements that have been made in the documents that we've seen; right?

MR. McGAAN: Lacks foundation.

A. No.

Q. Now sir, isn't it true that one of the reasons that B -- that nicotine was added to the samples in the B14 study was because the National Cancer Institute had done studies which showed a high correlation between nicotine and carcinogenic activity?

MR. McGAAN: Lacks foundation.

A. I have no idea.

Q. Well isn't it true that one of the reasons that BATCo had the studies done, which we have just looked

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at, was to try and determine what the role of nicotine was in promoting carcinogenic activity --

MR. McGAAN: Lacks --

Q. -- in mouse skin-painting tests?

MR. McGAAN: Lacks foundation.

A. I don't know.

(Plaintiffs' Exhibit 1450 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1450, this is a document that begins with the Bates number 100985235; right?

A. Correct.

Q. Exhibit 1450 is from Dr. Bilimoria; isn't it?

A. It's from M. H. Bilimoria, yeah.

Q. And it's written to Dr. -- or to Mr. R. S. Wade; right?

A. Correct.

Q. The date is January 24th, 1980.

A. Correct.

Q. And Dr. Bilimoria's memo is entitled "THE MUTAGENICITY BY THE AMES TEST OF CONDENSATES OBTAINED FROM CIGARETTES BELONGING TO THE JANUS B14 SERIES;" right?

A. Correct.

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Q. Why don't you take a moment and read this document.

You've read Exhibit 1450?

A. I've read it, yes.

Q. Okay. Dr. Bilimoria explains why the experiments on the JANUS B14 series were done in this memo; doesn't he?

A. Yes.

MR. McGAAN: Object. I think that mischaracterizes what's happening in the document.

Q. Now sir, he begins by saying the "Studies undertaken at the National Cancer Institute have shown a high degree of correlation between the nicotine content of tobacco and the carcinogenic activity of the condensate in the mouse skin test;" right?

A. That's what it says, yeah.

Q. And according to Dr. Bilimoria, this led B.A.T Southampton to design the B14 series to clarify the role of nicotine in the greater activity of high nicotine cigarettes; right?

A. Correct.

Q. Now the "B.A.T Southampton," that refers to BATCo; doesn't it?

A. That refers to the research department at BATCo.

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Q. He says, "The nicotine content of the B14 series was therefore varied by adding nicotine citrate to a standard blend." Right?

A. Correct.

Q. And he says, "The results obtained in the Ames test" --

Now the Ames test, that's not a mouse skin-painting test; is it?

A. No.

Q. All right. That's an entirely different test; right?

A. That's correct.

Q. And he says, "The results obtained in the Ames test show a clear dose-response relationship between the total nicotine alkaloid content and mutagenicity of the condensates." Right?

A. Correct.

Q. Now what that means is, in layperson's terms, the more nicotine, the more tumors; right?

MR. McGAAN: Object. Object, lacks foundation, mischaracterizes the research.

A. It says that there is a dose/response.

Q. Well do you understand that that means the higher the dose of the nicotine, in other words, the more nicotine, the more tumors resulted?

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MR. McGAAN: Object.

A. No.

MR. McGAAN: Object, lacks foundation, mischaracterizes the research.

Q. Actually, I'm sorry, strike that.

You understand, since this is an Ames test, --

A. That's right.

Q. -- that there was more reaction, the more the higher the dose of nicotine; right?

MR. McGAAN: Object.

A. That's --

MR. McGAAN: Object, lacks foundation, mischaracterizes the research and the data.

Go ahead.

A. That's what this says.

Q. All right. That -- that's what you understand the dose/response to be; right?

A. That's correct.

MR. McGAAN: Object, lacks foundation.

Q. Now sir, he also talks about the long-term mouse skin results done in the B14 series; right?

A. He talks about the long-term mouse skin results also ranked the B14 series in the same order as that obtained in the Ames test.

Q. In other words, in the mouse skin-painting, the

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higher the level of nicotine, the more tumors; right?

MR. McGAAN: Object, lacks foundation, mischaracterizes the research.

A. It says only -- "...but only B14-4 was significantly different from the control B14-1...."

Q. But he does say, "B-A.T.'s long-term mouse skin results also rank the B14 series in the same order as that obtained in the Ames test...;" right?

A. It does.

Q. All right. In other words, using two different types -- two different types of toxicological tests, mouse skin-painting and the Ames test, it was shown that the higher the nicotine level, the more response; right?

MR. McGAAN: Object, lacks foundation, mischaracterizes the research.

A. That's what this says.

Q. All right. That's what you understand, right, based on your reading of this?

MR. McGAAN: Object, lacks foundation.

A. That is what it says here, that there is a higher-dose rate.

Q. And he concludes by saying, "The dose-related increase in mutogenicity of the condensates with

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increasing nicotine content strongly suggests that it is the nicotine itself that is responsible for this increase and not any physical or chemical changes in the tobacco which resulted from the application of the nicotine solution." Right?

A. Correct.

MR. McGAAN: Object, you misread the document.

Q. Now sir, --

MR. McGAAN: Lacks foundation.

Q. -- do you have the --

MR. McGAAN: Wait, wait, counsel. Let -- let me just ask both the witness and counsel, I have a -- as you know, Marti -- a right to object, and I just need everyone to pause so I don't mess up the record and get these objections in late.

Thank you.

Q. Sir, is your background in toxicology?

A. No.

Q. What's your background in?

MR. McGAAN: Object. What do you mean? You mean what he studied in school?

A. What do you mean by my background?

Q. Well your education and training.

MR. McGAAN: Object, compound.

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A. I --

My final year at school, I specialized in chemistry, physics and mathematics.

Q. Do you have a Ph.D.?

A. No.

Q. Do you have a master's degree?

A. No.

Q. Do you have a bachelor's degree?

A. No.

MR. CASSIS: Are you finished with that document, Marti? Have you finished questioning on that document?

MS. WIVELL: Yes.

MR. CASSIS: All right. I think this is a good time to take a lunch break.

MS. WIVELL: Okay, that's fine. Why don't we go off the record and we can talk about how long.

THE REPORTER: Off the record, please.

(Luncheon recess taken at 12:21 o'clock p.m.)

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AFTERNOON SESSION

(Deposition reconvened at 1:21 o'clock p.m.)

BY MS. WIVELL:

Q. Sir, I have shown -- had the court reporter hand you Plaintiffs Exhibit 915, which begins with the Bates number 656042065. Do you have it, sir?

A. Could you just repeat the Bates number again?

Q. Yes. 656042065; right?

A. Correct.

THE REPORTER: We have to go off the record.

(Discussion off the record.)

BY MS. WIVELL:

Q. All right, sir. You have Exhibit 915 in front of you?

A. I do.

Q. All right. The first page of Exhibit 915 is a letter from M. J. Hardwick to Dr. Sanford at Brown & Williamson; right?

A. That's correct.

Q. What was Dr. Hardwick's position?

A. I'm not sure. He was at Group Research & Development Center.

Q. He was a BATCo employee, right?

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A. He was a BATCo employee.
Q. Now sir, if we turn to the third page of the document, we see that among the things that Dr. Hardwick sent to Dr. Sanford was a status review note; right?
A. Correct.
Q. And in that note he reported on products of reduced biological activity; right?
A. One of the areas of study was examination of products that would reduce biological activity.
Q. And he says there, "Re-analysis of the B14 and B15 skin painting experiments indicates that, notwithstanding the errors made by the contract research laboratory, the original conclusions are broadly correct." Right?
A. That's correct.
Q. Now sir, could you turn back to Exhibit 788, the 1981 B.A.T board strategies smoking issues document.
A. Uh-huh.
Q. Is there any information in this document that you can direct us to where the information about the studies on the B14 series are set forth?
A. I haven't read this. I couldn't direct you.
Q. Well we know, you would agree, that if we look at the page that ends with Bates number 284 -- I'm

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sorry, strike that.

If we look at the page that ends with Bates number 301 which says, "There is much evidence to support the view that nicotine in the quantities absorbed by smoking or other forms of tobacco use does not present a health problem," none of the B14 study information is presented there; right?

A. That's correct.

Q. Now sir, could you turn to the page of Exhibit 788 that ends with Bates number 313. There is a section entitled "Use of Animals in Research." Right?

A. Correct.

Q. And the second-to-the-last paragraph of that section of Exhibit 788 says, "There has been no reliable instance of the production of a human-type lung tumour in any animal system." Correct?

A. That's correct.

Q. All right. That's what it says; right?

A. That's it.

Q. All right. Sir, it doesn't give, in this section on the use of animals in research, the information about Dr. Loosli's results when mice were exposed to cigarette smoke; right?

MR. McGAAN: Object, lacks foundation,

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misleading.

A. There's nothing here about Dr. Loosli.

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 428, this is a memo written by Wally Hughes, your predecessor at Brown & Williamson; right?

A. That's correct.

Q. Now for the record, Exhibit 428 is Bates numbered 690004474 as its first Bates number; right, sir?

A. That's correct.

Q. All right. Would you take a moment and read the first two pages of this document.

You've read Exhibit 428, sir?

A. I have.

Q. Now Dr. Hughes wrote in this document about a study that had been conducted by Dr. Auerbach; right?

A. Well that's the heading of the paper.

Q. All right. And the Auerbach/Hammond paper was a paper that described how the scientists had exposed dogs to cigarette smoke; right?

A. I don't know. This is what is discussed here, but I don't have the Auerbach paper.

Q. All right. Do you remember the Auerbach common paper?

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A. No, I don't.
Q. Now Dr. Hughes says here, quote, "I am of the view that this shows it is now possible to produce tumors in the respiratory system of an animal by direct inhalation;" right?
A. That's correct.
Q. And he concludes his report by saying "...I accept that significant tumorigenic conditions following inhalation has been achieved." Right?
A. Yes, that's correct.
Q. Now Dr. Hughes wrote his paper fully 10 years before the B.A.T board's strategies on smoking issues claimed that there was no reliable instance of the production of a human-type lung tumor in any animal system; right?
MR. McGAAN: Object, argumentative.
A. I don't see the connection.
Q. Sir, Dr. Hughes wrote his paper 10 years before the B.A.T board strategies paper; right?
A. That's correct.
Q. And the B.A.T board strategies paper doesn't reveal that Dr. Hughes believed it was possible to produce tumors in the respiratory system of animals by direct inhalation; right?
MR. McGAAN: Object, lacks foundation as to

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what the doctor believed in 1981.

You can answer if you know.

A. He says that the correlation with humans is still way off.

Q. Move to strike as non-responsive.

Sir, my question is simple: Dr. Hughes wrote Exhibit 428 10 years before Exhibit 788 was written; right?

A. That is correct.

Q. All right. Now by the way, Dr. Hughes was not a medical doctor; was he?

A. Dr. Hughes, I believe I'm correct in saying, was a -- primarily a chemist, but I believe he had also studied pathology and biology.

Q. All right. But you understand that Auerbach and Hammond were medical doctors; right?

A. I don't know.

Q. You just don't know one way or the other; right?

A. No.

Q. Now sir, you understand that the 1981 B.A.T board strategies smoking issues document was sent to Brown & Williamson for its use; don't you?

A. I don't remember it being sent to Brown & Williamson. I would have thought it was for BATCo companies only.

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(Plaintiffs' Exhibit 1451 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1451, this is a document that begins with the Bates number 680585268; right?

A. Correct.

Q. And Exhibit 1451 is dated March 18th, 1981; right?

A. Correct.

Q. It is a letter from T. J. Walker to I. W. Hughes at Brown & Williamson; right?

A. That's -- excuse me.

Yes, that's correct.

Q. Why don't you take a moment and read the Exhibit 1451.

You've read Exhibit 1451?

A. I have.

Q. All right. Now at the time it was written, what was T. J. Walker's position?

A. He was an administrator in BATCo. I can't remember what his exact title was.

Q. All right. Having read Exhibit 1451, you know that it's a letter that Walker sent to Hughes about Exhibit 788, the 1981 B.A.T board strategies smoking

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issues document.
A. That would be apparent.
Q. All right. And he says it's a document that's to be used; right?
A. That's right.
Q. And he said it should be used as a working document and -- and as a guideline for the preparation of company strategy -- strategies on smoking issues within the context of public affairs department key areas; right?
A. Correct.
Q. And he expected that the 1981 B.A.T board strategies smoking issues document would be seen by executive directors of the company as well as heads of PR departments, legal departments, and any management staff connected with smoking issues; right?
A. That's what it says in the document.
Q. Now it says, "The previous 'blue book' on Smoking Issues should be destroyed." Right?
A. Correct.
Q. What was the blue book?
A. I have no idea.
Q. Well is it the document that preceded Exhibit 788?

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A. I don't know.
Q. All right. Did you ever hear the phrase "blue book" used --
A. I don't --
Q. -- at BATCo?
A. Don't recall. I may have done.
Q. Now Mr. Walker also asked that Mr. Hughes acknowledge receipt of the document; right?
A. That is correct.
Q. In other words, he was asked to acknowledge a receipt of Exhibit 788.
A. That's correct.
Q. And he did so; didn't he?
A. I don't know.
Q. Well it says in a little note under that, it says "done 3/25/81;" right?
A. That's what it says here.
Q. All right. And you have no reason to believe that Dr. Hughes did not acknowledge the document.
MR. McGAAN: Object, lacks foundation.
A. I have no reason to think otherwise.
Q. All right. Now sir, do you understand that the next year, the 1981 B.A.T board strategies document was replaced by the 1982 document?
A. Probably.

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Q. You would expect that to happen; right?
A. That's normally what would happen.
Q. All right. Do you remember when you were a B.A.T board member approving yearly PR strategy documents?
MR. PULTMAN: Object to the form of the question.
A. I don't.
Q. I'm sorry, sir?
A. I don't recall. Some of these would not have been done yearly.
Q. Sir, what was done to assure the B.A.T board that Exhibit 788 -- 788, the 1981 B.A.T board strategies smoking issues document, was accurate?
A. Was accurate?
Q. Yes.
MR. McGAAN: Object, lacks foundation.
A. In what respect?
Q. Well, sir, we know that it claims in the document that there is much evidence to support the view that nicotine in quantities absorbed by smoking or other forms of tobacco use does not present a health problem; right?
A. Uh-huh, correct.
Q. We have seen evidence of studies that were done

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at BATCo's request addressing the issue of the carcinogenicity of nicotine; right?

MR. McGAAN: Object, misleading, lacks foundation.

A. I'm not clear. I'm sorry.

Q. We've seen several study reports today at this deposition that address the carcinogenicity and tumorigenicity of nicotine; right?

A. Condensate.

MR. McGAAN: Same objection.

Q. That's right; isn't it, sir?

A. Condensate.

MR. McGAAN: Same objection.

Q. Yes.

It's right; isn't it?

MR. McGAAN: Same objection. He's answered it twice.

MS. WIVELL: No, he said "condensate" twice.

MR. McGAAN: Right.

A. We have seen --

MR. McGAAN: That's his answer to the question, counsel.

Wait. Is there another question?

MS. WIVELL: I'd like an answer to my

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question.

MR. McGAAN: Why don't -- why don't you re --

MR. CASSIS: Hold -- hold it, --

MS. WIVELL: Excuse me, sir.

MR. CASSIS: -- both of you.

MR. McGAAN: Rephrase it. Slow down.

MS. WIVELL: Let me rephrase the question.

BY MS. WIVELL:

Q. We have seen several studies that address the tumorigenicity and carcinogenicity of cigarette smoke -- or nicotine condensate; right?

MR. McGAAN: Object, misleading.

A. We have seen studies where condensate was used.

Q. And that looked at the issue of whether condensate with added nicotine was tumorigenic or carcinogenic; right?

A. Yes.

MR. McGAAN: Object.

You got to wait for me to state my objection.

THE WITNESS: I'm sorry.

MR. McGAAN: That mischaracterizes the evidence.

Q. Now sir, what was done to assure the BATCo board, before it approved Exhibit 788, that the

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statements that were made in here were accurate?

MR. McGAAN: Object, lacks foundation.

A. I don't know.

Q. Sir, showing you what's been previously marked as Exhibit 587, this is a "1982 B.A.T BOARD GUIDELINES, PUBLIC AFFAIRS;" right?

A. Correct.

Q. And this one shows that it was received on April 22nd, 1982 by Dr. Hughes at B&W; right?

A. That's what the stamp says.

Q. For the record, Exhibit 587 is Bates numbered 680585233 as its first Bates number; right?

A. Correct.

Q. All right. Now would you turn to the page that ends with Bates number 237. There at point 10 it says, "The Tobacco Industry will only be able to defend itself adequately against attack if it presents a united response." Right?

A. Correct.

Q. And it goes on to say, "Competitors will honour industry agreements if it is to their advantage to do so." Right?

A. Correct.

Q. Do you know what industry agreements it -- this document is referring to there?

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A. No, I don't.
Q. Now would you turn to the page that ends with Bates number 247. There it says at the top of the page "GENERAL INDEX, GENERAL STRATEGIES;" right?
A. Correct.
Q. And do you understand that what's set forth thereafter are general strategies for dealing with the government, medical authorities, industries and the media concerning smoking-and-health issues?
A. Yes.
Q. All right. Would you turn to the page that ends with Bates number 249. There at point 3.3 it says, "It is essential that, on Smoking Issues, the industry speaks with one voice." Right?
A. Correct.
Q. And it goes on to say, "In this connection, companies - without jeopardising commercial competitiveness in any way - should strive to have good relations and reach agreements with other members of the industry in the area of Smoking Issues;" right?
A. Correct.
Q. Now sir, isn't it true that the tobacco industry, including BATCo, had agreed to try and stress to the public that there was a controversy

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about whether cigarette smoking caused disease?

MR. McGAAN: Lacks foundation.

A. I believe that is correct, because they have truly -- truly did believe there was a controversy.

Q. Now sir, if we look at the bottom of the page, there again is reference to the forum INFOTAB; right?

A. Correct.

Q. And that's what we were discussing a little earlier in this deposition; right?

A. That's correct.

Q. All right. And it says here "Companies will continue to be advised on the areas to which a common position has been reached by INFOTAB and also of certain constraints that INFOTAB has accepted." Right?

A. Correct.

Q. All right. Now one of the common positions that had been reached by INFOTAB was this view that there was a, quote, unquote, controversy as to whether cigarette smoking caused disease; right?

MR. McGAAN: Lacks -- lacks foundation.

A. I don't know, but maybe.

Q. Now if we go on to the next page, the page that ends with -- with Bates number 250, there it talks about the media; right?

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A. It does.
Q. And it recommends that companies should develop comprehensive programs for stating their and the industry's case through the media; right?
A. Correct.
Q. All right. And in fact, BATCo did establish a media program to try and get its view on smoking and health and the alleged controversy across to the public; right?
A. I'm not aware of it.
Q. All right. Well, it says here at the bottom of the page, "In this connection, guidance is provided in the Position Papers and, additionally for television, in the video tape 'The Television Interview' produced by Public Affairs Department, Millbank;" right?
A. That's correct.
Q. Now do you understand that what it's referring to there is the fact that position papers were written on the smoking-and-health controversy that were provided to be used by member companies?
MR. McGAAN: Object, vague, lacks foundation.
A. Position papers were probably produced and made available, yes.

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Q. All right. On the smoking-and-health controversy; right?

A. Correct.

Q. Also there is reference there to a television interview video tape. That was a tape that was produced to give advice about how to be interviewed on TV; right?

A. I don't know.

Q. Well it says, "In any case Public Affairs Department, Millbank must be advised prior to any company personnel being interviewed on Television;" right?

A. That's correct.

Q. And it does refer to a video tape entitled "The Television Interview;" right?

A. That's correct.

Q. Now going back to the reference about INFOTAB on page 249, it refers to INFOTAB and says, "In addition to INFOTAB'S direct communication with member companies, it also communicates with MBAs" --

MR. McGAAN: No.

A. "NMAs."

Q. "NMAs," pardon me. What does NMA refer to?

A. I can't remember what it is. It's an acronym for something.

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Q. All right. And it talks about lead companies in countries where member companies' affiliates are represented; right?

A. It does.

Q. Goes on to say, "It is the responsibility of NMAs and 'lead companies' to disseminate communications from INFOTAB between members of the industry and to inform INFOTAB of major developments on smoking issues that occur in their countries;" right?

A. Correct.

Q. Did you understand that those things that we've just read were purposes for which INFOTAB was initiated?

MR. McGAAN: Object, lacks foundation, asked and answered.

A. I can't see anything which would lead me to believe that INFOTAB was created for this purpose.

Q. Well it says at the beginning, "A forum (INFOTAB) has been established at which international companies can discuss issues of mutual interest in the field of smoking issues in order to agree a common position where possible;" right?

A. That's correct.

Q. And you understood that that was the purpose of

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INFOTAB; right?

MR. McGAAN: Object, object, lacks foundation.

Q. I'm sorry, sir, did you answer?

A. That is correct.

Q. Now sir, earlier we talked about the withdrawal of the B.A.T companies from INFOTAB. Do you recall that?

A. I do.

Q. Patrick Sheehy actually wrote the telegram that was sent by which B.A.T withdrew from INFOTAB; right?

MR. McGAAN: Object.

MR. PULTMAN: Object to the form, no foundation.

MR. McGAAN: Lacks foundation.

A. I don't --

I don't recall whether he wrote it or not.

(Plaintiffs' Exhibit 1452 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1452, this is a document Bates numbered 301030961; right?

A. Correct.

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Q. Why don't you take a moment and review it.

You've read it?

A. I have.

Q. All right. This is a telex sent by Patrick Sheehy in 1983; right?

A. Correct.

Q. It's the telex informing the chairman of INFOTAB that B.A.T was withdrawing; right?

A. That's correct.

Q. And at the time Patrick Sheehy sent this telex, he was chairman of B.A.T Industries P.L.C.; wasn't he?

A. I think he was. Yes.

Q. And as a matter of fact, it says in here that B.A.T has decided to withdraw from all cooperation with INFOTAB for the time being; right?

A. Correct.

Q. And it --

Under Sheehy's name it says "BATIND;" doesn't it?

A. It does.

Q. All right. Now it also bears a stamp that says "WINDSOR HOUSE;" right?

A. I'm trying to find it. I can't see it.

Q. Maybe I can direct your attention to it, sir

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(indicating).

A. I see. Yes.

Q. Now Windsor House, that is the location of B.A.T Industries P.L.C.; isn't it?

A. Correct.

Q. And it was in 1983 when this Exhibit 1452 was sent.

A. That is correct.

Q. Now sir, you were aware while you were with BATCo of the legal cases which had been filed against Brown & Williamson in the United States; right?

A. I was aware as a matter of general interest that there had been cases filed. What those cases specifically were I was not aware.

Q. Well sir, did you understand that the dominant position of the legal attitude affected events that took place at BATCo? Let me rephrase that question.

Were you aware that the dominant position of the legal attitude at Brown & Williamson affected events that took place at BATCo?

MR. McGAAN: Let me object before you answer. If you know -- if you know the answer to the question or have any recollection, and it comes from your conversations with lawyers, you can't answer the question because it's privileged. Do you

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understand --

THE WITNESS: Uh-huh.

MR. McGAAN: -- my instruction?

THE WITNESS: Uh-huh.

MR. McGAAN: So with that, go ahead and answer the question if you can.

A. No, I wasn't aware.

Q. Well when you became president of Brown & Williamson, did you understand that the legal position which resulted from Brown & Williamson's being sued in smoking-and-health cases in the United States dominated its activities?

MR. McGAAN: Same instruction, if you understand.

A. I was not president of Brown & Williamson.

Q. I'm sorry. When you became CEO of Brown & Williamson, did you understand that the legal position which resulted from Brown & Williamson's being sued in smoking-and-health cases in the U.S. dominated its activities?

A. No.

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 318, this is a letter which Wally Hughes wrote to Dr. S. J. Green of British-American Tobacco Company in March of 1977;

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right?

A. That's what it says.

Q. All right. For the record, Exhibit 318 is Bates numbered 110078077; right?

A. Correct.

Q. Now at the time Dr. Hughes wrote this he was senior vice-president of manufacturing research and development at B&W; right?

A. That's correct.

Q. Now we've referred to him as Dr. Hughes, and I -- forgive me if I've asked this question. He was not a medical doctor; was he?

A. No. I told you he -- it was chemistry with -- but he'd also studied pathology and biology.

Q. Now at the time, Brown & Williamson did not have a medical doctor on staff; right?

A. Not on its staff, no.

Q. And as a matter of fact, up to the time that you retired, Brown & Williamson did not have a medical doctor on its staff; did it?

A. That's correct.

Q. And in fact, up to the time you -- up to -- I'm sorry, strike that. Now at --

Have you seen this document before, Exhibit 318?

A. No, I haven't.

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Q. Why don't you take a moment and read it.

You've read it?

A. I have.

Q. Now in this paper Dr. Hughes comments on a paper on causality that Dr. Green had written; right?

A. That's correct.

Q. And Dr. Hughes said that he does not feel that discussions of that paper at the research conference would be helpful; right?

A. Be useful.

MR. McGAAN: Object, I think you just misread that.

Q. He didn't feel it would be useful.

A. That's correct.

Q. And he goes on to say, "I think you know that the position in the U.S. is still focussed around the existence of high risk, quote, wipe out, quote, liability; this leads to the continuing dominance of the legal attitude." Right?

A. That's what it says.

Q. All right. Now sir, did you, when you joined Brown & Williamson in 1985, learn that the legal attitude dominated its affairs?

MR. McGAAN: Object, asked and answered.

A. The leg --

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The liability issue dominated legal affairs; it didn't dominate anything else.

Q. Isn't it true that the liability issue dominated scientific affairs at Brown & Williamson?

MR. McGAAN: Object, asked and answered.

A. I'm not aware, no.

Q. Isn't it true that the liability issue dominated Brown & Williamson's public statements?

MR. McGAAN: Object, asked and answered.

A. I don't believe so.

MR. McGAAN: Sorry.

Q. Isn't it true that the liability issue dominated BATCo's scientific affairs?

A. I don't think so.

Q. Isn't it true that the liability issue dominated BATCo's public statements?

A. I don't think so.

Q. Isn't it true that the liability issues dominated the public statements made by the entire BAT Group?

A. I don't think so.

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 443, this is a document written by Dr. Green; isn't it?

A. Well there are initials SJG, which are Dr.

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Green's initials. The signature is undecipherable.

Q. Okay. Well up in the middle of the last page of Exhibit 443, doesn't it say S. J. Green?

A. Middle of which page?

Q. The last one, sir.

MR. McGAAN: You're asking him to read that, the pen marking, or something else?

A. I -- I don't recognize it as Dr. Green's signature.

Q. All right. But the SJG initials at the bottom of the page, those --

A. Are his. Those are his initials.

Q. Sir, you have to wait for me to finish.

A. I'm sorry.

Q. Okay. Those are his initials; right?

A. They are indeed.

Q. Okay. Now if we turn to the first page of this document, we see that it's dated October 27th, 1976; right?

A. Correct.

Q. That's before the Exhibit 318 that Wally Hughes sent to Dr. Green; right?

A. That is correct.

Q. And Exhibit 443 begins by saying, "The public position of tobacco companies with respect to causal

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explanations of the association of cigarette smoking and diseases is dominated by legal considerations." Right?

A. That is correct.

Q. And it goes on to say, "In the ultimate companies wish to be able to dispute that a particular product was the cause of injury to a particular person;" right?

A. Correct.

Q. And it goes on to say, "By repudiation of a causal role for cigarette smoking in general they hope to avoid liability in particular cases;" right?

A. Correct.

Q. It goes on to say, "This domination by legal consideration thus leads the industry into a public rejection in total of any causal relation between smoking and disease and puts the industry in a peculiar position with respect to product safety discussions, safety evaluations, collaborative efforts et cetera;" right?

A. "Collaborative research."

Q. I'm sorry, "collaborative research, et cetera." Right?

A. Correct.

Q. All right. And it goes on to say, "The industry

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has retreated behind impossible demands for, quote, scientific proof, quote, whereas such proof has never been required as a basis for action in the legal and political fields;" right?

A. Correct.

Q. All right. Now let me ask you: In light of this document, isn't it true that the public positions of the tobacco companies with respect to their statements about whether cigarette smoking causes disease was dominated by legal considerations?

MR. McGAAN: Object, he answered that question already.

You have to answer it again.

A. I don't think it dominated.

Q. Now sir, you understand that Dr. Green retired from BATCo and shortly thereafter went on the BBC; right?

A. What do you mean by "went on the BBC?"

Q. Well you understand that he appeared on a program --

A. Oh, he appeared on --

Q. -- called Panorama?

A. My understanding of "went on the BBC" means something different. Sorry.

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Q. Okay.
A. He appeared in the program.
Q. All right. Let me rephrase the question.
You know that after he retired from BATCo, Dr. Green appeared on the Panorama program on the BBC.
A. That is correct.
Q. You saw it; didn't you?
A. I can't remember whether I saw it or not. I may have been traveling at the time.
Q. All right. But you sure heard about it; didn't you?
A. I heard about it.
Q. And that's because Dr. Green said he believed that cigarette smoking caused disease on the BBC; didn't he?
A. I --
MR. McGAAN: Object, that might mischaracterize what the transcript reflects. We don't have it in front of us, so I don't know for sure.
A. I didn't --
I don't recall seeing the program. I don't recall hearing what he actually said other than that he had made a statement.
Q. All right. Well what did you hear that he said?

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A. I don't recall what I -- what -- hearing what he said.

Q. Well it made a big to-do at BATCo; didn't it?

MR. McGAAN: Objection, argumentative.

MR. CASSIS: Don't argue with him, Marti. You were doing fine until that question.

Q. I'm sorry.

A. I said I don't know. It happened whilst I was traveling, so --

Q. Sir, showing you what's previously been marked as Plaintiffs' Exhibit 512, this is a document which bears the Bates number 301140234; right?

A. Correct.

Q. All right. Now sir, would you take a moment and read the portion of this document that bears the Bates numbers 237 through 241. No, 240.

You've finished it, sir?

A. I have.

Q. All right. Exhibit 512 is a transcript of the Panorama program that Dr. Green appeared on on the BBC; right?

A. I wouldn't know, but that's what it says on the -- on the front page.

Q. All right. And Dr. Green is referred to in the pages that I had you read; right?

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A. That's correct.
Q. Now Dr. Green is referred to here as being retired from the board of British-American Tobacco.
A. That is correct.
Q. Was he on the board of BATCo?
A. He was.
Q. While you were on the board; right?
A. Whilst I was on the board, yes.
Q. And you heard while you were on the board Dr. Green express his opinions on whether cigarette smoking is harmful; right?
A. I never did hear him express a view.
Q. You --
You never ever heard him express any views about cigarette smoking; right?
A. That's correct.
Q. Now in this appearance on the BBC he does say he believes cigarette smoking is harmful.
A. But he also qualifies it.
Q. But he does say it; doesn't he, sir?
A. He does.
Q. And he also suggests that the public position that had been taken by the tobacco companies was different than the position it held privately; right?
A. I can only assume he's speaking for himself.

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Q. But he does say that he believes that the industry's position was different publicly than it was privately; right?

MR. McGAAN: Let me object. Can you direct the witness to where it says that in the document?

If she's not going to direct you to where it says -- says that, then you need to read back through it to see if it in fact says that, as her question suggests it might.

MS. WIVELL: I object to your instructions, counsel.

MR. McGAAN: Well no, it's --

MS. WIVELL: I believe that's a clear violation of the rule.

MR. McGAAN: No, it's not.

MS. WIVELL: I asked the man a question and you're coaching him.

MR. McGAAN: I've stated an objection.

MR. CASSIS: Folks, folks, we're going to take a two- or three-minute break now pursuant to doctor's -- Ray Pritchard's doctor's instructions. It's been over an hour. We're going to take a two- or three-minute break and be right back.

THE REPORTER: Off the record, please.

(Recess taken.)

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BY MS. WIVELL:

Q. Sir, directing your attention to the page that ends with Bates number 237 of Exhibit 512, there is a quote there that says, in part, "In my view it would be best to be in a position to say in public what we believe in private." Right?

A. That's correct.

Q. All right. Now sir, isn't it true that for 25 years before Dr. Green went on the BBC on the Panorama program, BATCo had operated under the working hypothesis that cigarette smoking caused disease?

MR. McGAAN: Object, vague, lacks foundation.

A. I don't think so.

Q. By the way, Dr. Green, according to Exhibit 512, went on the BBC on April 14th, 1980; right?

A. According to this document, yes.

Q. All right. Does that generally comport with your recollection of approximately when he appeared on the BBC?

A. I can't remember, but it was during my tenure at BATCo, so it's probably about -- about right.

Q. All right. I would like to show you a document that Dr. Blackman wrote a few months after Dr. Green

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appeared on the BBC.

Dr. Blackman was Dr. Green's replacement as head of R&D at BATCo; wasn't he?

A. Subsequently, yes.

(Plaintiffs' Exhibit 1453 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1453, this is a document Bates numbered 109881275; right?

A. Correct.

Q. And it's entitled "STANCE ON SMOKING AND HEALTH, Note for Information and Discussion." Right?

A. Correct.

Q. And it was written by Dr. Blackman; wasn't it?

A. It was.

Q. The memo is dated 12 -- I'm sorry -- 18.12.80, which in American terms is December 18th, 1980; right?

A. That's correct.

Q. Have you ever seen this document before, sir?

A. I can't remember seeing it.

Q. All right. Would you take a few moments and read it, please.

A. All of it?

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Q. Yes, sir.
A. Okay.
Q. You have read Exhibit 1453, sir?
A. I have.
Q. Now this document was written at the time that Lionel Blackman was head of R&D for BATCo; right?
A. I am not absolutely certain when he became -- I'm sorry. Let me rephrase that.
He was head of R&D. Whether he was a board member at this time, I'm not sure.
Q. All right. You understand that this document was written to be given to the BATCo board; don't you?
A. I don't -- I don't know.
Q. Well he recommends a change in position; doesn't he?
A. That's correct.
Q. Now he outlines the situation that caused him to make this recommendation or --
A. That's correct.
Q. -- discussion; right? And he says, "There is a growing feeling that the worldwide climate demands that the cigarette industry must change its stance on smoking and health if it is to regain or attain credibility;" right?

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A. Correct.
Q. And he goes on to talk about the situation as he saw it; right?
A. Correct.
Q. And he says, among other things, "Without in any way accepting the allegation of causation, Industry has for the past 25 years used as a working model the assumption that there may be potentially harmful components in smoke;" right?
A. Correct.
Q. And he goes on to say, "Largely because of the US legal constraints, however, the Industry has not found to date a 'safe' way of communicating either the product changes or encouraging medical evidence to consumers, doctors, authorities, and the media or even to its own employees;" right?
A. Correct.
Q. Now sir, let me ask you again: In light of Dr. Blackman's comments, isn't it true that the U.S. legal situation dominated what the BAT Group companies said about their cigarette products?
MR. McGAAN: Object, asked and answered.
A. You use the word "dominate" and what we -- what BATCo was saying about cigarettes. I do not believe it did dominate. I believe it is -- that it -- that

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BATCo was aware that it needed to be cautious in its approach.

Q. Well if we go on to the next page, it starts out under the heading "A Possible Change of Stance" by saying, "Throughout this year, Public Affairs, Legal Department and R&D have been considering ways of breaking out of the dilemma without prejudicing the legal position."

A. That's correct.

Q. And as a matter of fact, as a result of Dr. Green going on the BBC and saying what he said about cigarettes and disease, it was considered important to address the issue of whether or not there should be a change of stance in the BAT Group's public position about smoking and cigarettes; right?

MR. McGAAN: Object, lacks foundation.

A. I do not see any link between Dr. Green appearing on the BBC program and this particular note.

Q. Just mere --

Is it a mere coincidence, is that your testimony, that these things occurred within a few months of one another?

MR. McGAAN: Object, argumentative.

A. I have no -- I have no basis for -- for -- for

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making that link.

Q. You were on the board at the time; weren't you?

A. I was on the board.

Q. Now sir, this document goes on to talk about actions which had been taken in consideration of a change of possible stance; right?

A. Where are we?

Q. "Action to Date."

A. Yes.

Q. And it talks about the fact that a new R&D brochure was considered by the legal department, the TEC, the group legal conference and finally B&W; right?

A. Correct.

Q. Now what's the TEC?

A. Tobacco Executive Committee.

Q. What was that?

A. It was the Executive Committee of the B.A.T board -- of the BATCo board. I'm sorry.

Q. And what was the group legal conference, sir?

A. Sorry?

Q. What was the group legal conference?

A. I don't know.

Q. Now why would Brown & Williamson's lawyer, Mr. Pepples, be approving a BATCo R&D brochure?

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MR. McGAAN: Object, mischaracterizes the document.

A. The document was considered. He wasn't authoring it for -- for the BATCo board.

Q. Well why would a Brown & Williamson lawyer be approving a BATCo R&D brochure?

A. It's because we were sensitive to the situation in the United States.

Q. All right. Now if we turn to the next page, there's reference to a video tape recording of a tape that had been made by Dr. Blackman; right? In the third paragraph.

A. Correct.

Q. And it says there, "After full vetting by the Legal Department...."

What does "vetting" mean?

A. Perusal.

Q. Perusal. Approval? Does it mean approval?

A. No, it doesn't necessarily mean approval.

Q. All right. It also refers to vetting by Shook, Hardy & Bacon in the United States; right?

A. It does.

Q. Now what relationship did BATCo and Shook, Hardy & Bacon have?

A. I don't know.

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Q. Do you know if copies of BATCo materials on smoking and health were submitted to Shook, Hardy & Bacon for their perusal?
A. I don't know.
Q. Do you understand that Shook, Hardy & Bacon is the tobacco industry's liability counsel in the United States?
A. I only became aware of that when I moved here in '85.
Q. But you did become aware of it, though; didn't you?
A. In '85.
THE REPORTER: Sir, could I have you put your hands down, please.
THE WITNESS: Oh, I'm sorry. Am I blocking the mike?
Q. Now you understand that the B.A.T Industries board adopted a policy on smoking and health; right?
A. The B.A.T Industries board.
Q. Yes, sir.
A. I don't remember.
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 503, this is a document Bates numbered 107620266; right?
A. Correct.

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Q. And it's entitled "LEGAL CONSIDERATIONS IN SMOKING AND HEALTH ISSUES."

A. Correct.

Q. And it says, "A note issued by Dr. H." -- or I'm sorry, strike that.

It says, "A note issued by Mr. H. A. Morini, Legal Director of BATCo, was sent to you in May 1981;" right?

A. Correct.

Q. And it says, "The issues...in that note have now become of crucial importance to the Group in view of recent developments in the USA of which you may be aware, concerning the Manville Corporation." Right?

A. Correct.

Q. And it goes on to say, "Accordingly, the May 1981 note is being re-circulated under cover of a note issued by P. J. -- Mr. P. J. Ricketts, Legal Director of B.A.T Industries p.l.c., which stresses the importance of understanding the legal considerations involved in smoking and health issues having particular regard to the fate of the Manville Corporation in the USA;" right?

A. That's correct.

Q. And this document is dated September 15th, 1982; right?

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A. That's correct.
Q. And sir, isn't it true that it was well known throughout the BAT Group companies that they must be sensitive to the legal issues presented by the smoking-and-health litigation in the United States?
MR. McGAAN: Object, lacks foundation as phrased.
A. I think they would have been aware of it, yes.
Q. All right. Sir, isn't it true that it was believed within the BAT Group companies that any unfortunate statement could bring down the house?
MR. PULTMAN: Object to the form of the question.
A. I don't think so.
(Plaintiffs' Exhibit 1454 was marked for identification.)
BY MS. WIVELL:
Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1454, this is a document that bears the Bates number 512106944; right?
A. Correct.
Q. And it's a Brown & Williamson Tobacco Corporation report to the BATUS board of directors on smoking and health; right?
A. That's correct.

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Q. Would you turn to the page that's Bates numbered 960. Do you have it, sir?

A. I have it.

Q. Do you see under the statement "Linkages" where it says, "However, the intense hostility of the environment also places a high priority on control of statements by the manufacturers on the issues. An unfortunate statement could bring down the house?"

A. I do.

Q. And it goes on to say, "Products liability litigation may be the most obvious arena where a misstatement could cause difficulty." Right?

A. Correct.

Q. And it goes on to say, "In some states in the U.S., no causation and voluntary informed consumption may be the only defenses a manufacturer can make against a health lawsuit." Right?

A. Correct.

Q. Goes on also to state, "In the legislative context the impact of an unwise company statement would be no less devastating;" right?

A. Correct.

Q. Now in 19 --

This document was written in 1983; right?

A. That's what it says.

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Q. And at that time Congress was considering whether rotating health statements should appear on cigarette packages. Isn't that true, sir?

A. I can't be sure.

Q. Well it goes on to say -- or it goes on to refer to the issue of the causal hypothesis being very much alive at the hearings on the warning notice legislation; right?

A. Correct. Correct.

Q. And it goes on to say, "Had adversaries been able to report a significant concession by a manufacturer the effect could have been significant to -- been sufficient to pass the legislation;" right?

A. Correct.

Q. Now sir, isn't it true that you participated in conferences where the significance of the U.S. legal situation was discussed?

A. I don't recall any.

Q. Do you recall attending a conference in Brazil, in Rio de Janeiro?

MR. McGAAN: Ever?

A. In Rio de Janeiro?

Q. Yes, sir.

A. I lived there for seven years. I don't know

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whether I --

I attended many conferences.

Q. Do you recall attending the BATCo chairman's advisory conference held in Rio de Janeiro in March of 1983?

A. No.

THE REPORTER: We have to change tape. Off the record, please.

(Discussion off the record.)

(Plaintiffs' Exhibit 1455 was marked for identification.)

BY MS. WIVELL:

Q. Sir, showing you what's been marked as Plaintiffs' Exhibit 1455, these are the minutes of the BATCo chairman's advisory conference held in Brazil in March of 1983; right?

A. Correct.

Q. They're marked "RESTRICTED" at the top; right?

A. That's right.

Q. What does that mean, "RESTRICTED?"

A. It would have restricted circulation.

Q. Restricted to whom, sir?

A. I don't know.

Q. All right.

A. Restricted.

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Q. Exhibit 1455 begins with the Bates number 109877063; right?

A. Correct.

Q. You attended this conference; didn't you, sir?

A. Yes. I've seen my name there. Yes.

Q. Now if we turn to the page that ends with Bates number 073, you see the heading "SMOKING ISSUES?" Right?

A. Correct.

Q. And do you recall that smoking issues was discussed at this conference?

A. I don't. I can't remember.

Q. All right. Why don't you take a moment or two and read what's written on this page.

A. Seventy-three?

Q. Yes.

A. Just this page?

Q. Yes.

Are you done?

A. I'm done.

Q. All right. Now this page begins by saying, "Delegates summarised the smoking and health activities in their countries and their relationships between their companies and governments and other bodies;" right?

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A. Correct.
Q. Does reading this page help refresh your recollection that that occurred?
A. Not really, no.
Q. You have -- you have no doubt that --
A. I have no doubt --
Q. -- you were there.
A. No, I have no doubt at all.
Q. And you have nothing that disputes or --
You have no recollection that disputes anything written on this page; do you?
MR. McGAAN: Objection, argumentative. He doesn't remember.
Q. Now sir, it goes on to talk about activities in the United States; doesn't it?
A. It does.
Q. It says, "Activities in the USA can affect trends in other countries and the smoking issues environment there has grown substantially more hostile in the last year." Right?
A. Correct.
Q. And it talks about allegations against smoking returning to causation; right?
A. Have returned to causation.
Q. And also cover an increased number of disease

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associations; right?

A. Correct.

Q. And then it talks about the greatest threat for 1983 was a bill in Congress which would, amongst other things, enforce rotational warnings covering a variety of diseases; right?

A. Correct.

Q. Now why did BATCo -- or the BAT Group consider rotational warnings on cigarette packages to be a threat?

A. I don't know.

Q. You can't think of anything as you sit here?

A. No.

Q. You know that Brown & Williamson opposed rotational warnings on cigarette packages; didn't it?

A. I don't.

Q. Now sir, at this conference the delegates discussed methods for limiting communications between the various BAT Group companies; right?

A. I don't know.

Q. Would you turn to the page that ends with Bates number 089. It says there at point four, "There was a discussion on the quantity and quality of communication among the BAT tobacco interests and the meeting welcomed BATCo's intention to review and

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bring to an efficient minimum the level of written communications between operating companies and Millbank;" right?

A. Correct.

Q. Now sir, isn't it true that this was a concern that had been raised, that BATCo scientific reports might be -- have to be disclosed in product-liability cases in the United States and that that's really what's being discussed here?

MR. McGAAN: Object, lacks foundation.

A. I -- I can see nothing here that would indicate that.

Q. Well sir, what does it mean that BATCo was going to review and bring to an efficient minimum the level of written communication between operating companies and Millbank?

A. I imagine exactly what it says.

Q. Well what do you understand that to mean?

A. That there was far too much paperwork flying around.

Q. And there were far too many damaging things being said in those papers that might be produced in product-liability cases in the United States; right?

MR. McGAAN: Object.

A. I don't --

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MR. McGAAN: Argumentative, lacks foundation.

A. I don't know that.

Q. Now sir, isn't it true that it was also determined at this conference that the delegates would take a long look at coordinating key strategies for tobacco activities?

A. Possibly, but I'm not sure.

Q. Well, you would agree that BATCo had been delegated or charged by the B.A.T Industries board with coordinating the tobacco activities of the various group tobacco companies.

MR. McGAAN: Object, vague as to time.

A. I don't recall that.

Q. Would you turn to the page of Exhibit 1455 that ends with Bates number 090. It says there under point six, "There was a discussion on the role and purpose of Millbank and whether it is achieving its purpose." Right?

A. Correct.

Q. Now Millbank is the -- a reference to BATCo.

A. This was the headquarters of BATCo.

Q. Goes on to say, "It was noted that the BATCo Board is charged by B.A.T Industries with developing, agreeing and coordinating the key strategies for its

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tobacco activities." Right?

A. That's correct.

Q. Now sir, did you understand that the BATCo board was charged by B.A.T Industries with developing, agreeing and coordinating key strategies for its tobacco activities?

A. That was -- was not, certainly, the impression that I was under.

Q. All right.

A. It was that the BATCo board had been charged by B.A.T with developing and agreeing and coordinating the key strategies of the BATCo companies.

Q. But that's not what it says; does it, sir? It says that they will coordinate the key strategies for its tobacco activities; right?

MR. McGAAN: Object, argumentative, lacks foundation.

A. That's what it says, but it can have the meaning I gave to it.

MS. WIVELL: Well it's 3:00 o'clock and I have been told by your counsel that you want to stop at 3:00. Although I would like to continue, I don't want to put you in a position where you don't feel you're health-wise able to go on.

MR. CASSIS: 8:30 tomorrow morning?

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MS. WIVELL: That's fine.

THE WITNESS: 8:30 tomorrow morning.

THE REPORTER: Off the record, please.

(Deposition recessed at 3:00 o'clock p.m.)

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C E R T I F I C A T E

I, Richard G. Stirewalt, hereby certify that I am qualified as a verbatim shorthand reporter; that I took in stenographic shorthand the testimony of RAYMOND J. PRITCHARD at the time and place aforesaid; and that the foregoing transcript consisting of pages 1 through 157 is a true and correct, full and complete transcription of said shorthand notes, to the best of my ability.

Dated at Louisville, Kentucky, this 27th day of October, 1997.

RICHARD G. STIREWALT
Registered Professional Reporter
Notary Public

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C E R T I F I C A T E

I, RAYMOND J. PRITCHARD, the deponent, hereby certify that I have read the foregoing transcript consisting of pages 1 through 157, and that said transcript is a true and correct, full and complete transcription of my deposition except:

RAYMOND J. PRITCHARD
Deponent

Sworn and subscribed to before me this day of , 1997.

Notary Public

My commission expires .

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